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AN

ENQUIRY

INTO THE

DUTIES OF MEN

IN THE

HIGHER AND MIDDLE CLASSES OF SOCIETY
IN GREAT BRITAIN,

RESULTING FROM THEIR RESPECTIVE STATIONS,
PROFESSIONS, AND EMPLOYMENTS.

By THOMAS GISBORNE, M. A.

THE SIXTH EDITION, CORRECTED.

IN TWO VOLUMES.

VOL. I.

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PREFACE.

As the plan purſued in the ſubſequent work is detailed in the firſt chapter, it would be ſuperfluous to ſay any thing concerning it in this place. But there is another point on which the reader may wiſh for ſome explanation, before he enters on the peruſal of the following pages. He will be aware that it can ſcarcely fall to the lot of any individual to attain to ſuch a degree of perſonal knowledge of the habits, purſuits, and occupations of the different ranks and profeſſions into which the higher and middle claſſes of ſociety in this country are diſtributed, as to qualify him to delineate their reſpective duties with tolerable accuracy. And he may with juſtice expect to be informed whether the author of the preſent performance has enjoyed advantages of any kind, affording him a chance of accompliſhing, in a ſatisfactory manner, the taſk which he has undertaken. It is there-

fore incumbent on me to ſtate that I have enjoyed, in carrying on the work, advantages of ſuch a nature as to leave me almoſt without apology for the greater part of its errors and imperfections. The endeavours which I have ſtudiouſly made to derive intelligence from various quarters reſpecting the ſeveral topics which I have had to diſcuſs, have been amply recompenſed. And in executing moſt of the chapters appropriated to particular deſcriptions of men, and eſpecially ſome of thoſe chapters with the ſubjects of which I was the leaſt acquainted, I have been fortunate enough to receive the unreſerved ſuggeſtions, advice, and animadverſions of perſons ſeverally occupying the ſtation, or belonging to the profeſſion in queſtion, and accuſtomed ſtrictly to conſider its duties in a conſcientious light. Were I at liberty to mention the names to which I allude, ſome of them would be found in poſſeſſion of no ſmall ſhare of public reſpect and eſteem.

Yoxall Lodge, near Lichfield,
Nov. 6th, 1794.

[library stamp]

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AN

ERRATA.

Vol. I.

Page 1, line 8, put a comma after *performance.*
10, 11, for *as far as I am* read *ſo far as I may be.*
2, 20, for *as far* read *ſo far.*
5, 1, read *farther.*
22, for *a further* read *a collateral.*
11, 4, begin the paragraph thus, *With the exception of the Jewiſh theocracy, the forms,* &c.
16, for *rude and* read *ſavage or,*
13, 14, (note) read *farther.*

Vol. II.

Page 66, line 9, for *urged —— reaſon*, read *urged, and though often puſhed too far, they are not without reaſon.*
67, 4, for *is* read *may be.*
70, 11, for *effectual* read *efficacious.*
74, laſt, for *his* read *the.*
77, 1, after *that* add, *unleſs the diſtance between them be very ſmall.*
2, (note) dele the ſecond comma.
79, 17, after *fraud* add *ſhall.*
82, 4, read *principles.*
84, 20, for *and* read *attainments.*
94, 4, after *Biſhop* add *generally.*
109, laſt, read *farther.*
110, 5, (note) for *as far* read *ſo far.*

AN

ENQUIRY

INTO THE

DUTIES OF MEN, &c.

CHAP. I.

PLAN OF THE WORK EXPLAINED.

TO apply moral truths to practical purposes; to point out their bearings on modern opinions and modern manners; and to deduce from them rules of conduct by which the inhabitants of this country in particular, each in his respective station, may be aided in acquiring the knowledge and encouraged in the performance of their several duties, are objects of unequivocal utility. They are the objects which it is my wish to attain, as far as I am able, in the present work.

In a former treatiſe (*a*) I have briefly endeavoured to inveſtigate the fundamental rules of natural juſtice; and to point out the wide range of moral obligations incumbent on mankind in general, together with the grounds on which they reſt. The moral principles there maintained have a cloſe connection with the ſubjects now to be diſcuſſed; and may in ſome caſes evidently form the ultimate baſis of my reaſoning. But whatever may be the occaſions on which they are applicable, I do not mean to occupy the time of the reader with an attempt to eſtabliſh them afreſh; but would refer him to the proofs already advanced in ſupport of them in the proper place.

The plan propoſed requires me to enter into a regular and to a certain degree minute detail of the various duties of the different claſſes of ſociety, which fall within its limits; to combine in every branch of my enquiry, as far as the nature of the ſubjects will admit, the con-

(*a*) The Principles of Moral Philoſophy inveſtigated, and briefly applied to the Conſtitution of Civil Society. Second edition, 1791.

clusions of reason with the dictates of religion; and to subjoin such inferences, remarks, and illustrations as appear immediately applicable to the circumstances of Englishmen in common life. In the prosecution of a plan of this nature, the attention will of course be attracted in the first place by those objects which are of the most general importance, and those situations which render the persons fixed in them particularly conspicuous. And it will afterwards be directed to points which interest either a smaller proportion of the community, or that part of it which is more withdrawn from public observation. I propose therefore, in the outset of the undertaking, to investigate the conformity between the acknowledged principles of the British Constitution, as it stands and is administered at present, and those fundamental rules of political wisdom, which ought to be carefully regarded in every civil society: to offer, in the next place, some remarks on the functions of the Sovereign, and to notice the general duties of Englishmen as subjects and fellow-citizens: and afterwards to discriminate the upper and middle classes of the inhabitants of this country according to the se-

veral ranks, profeſſions, and employments into which they are diſtributed, beginning with thoſe of a public nature, and deſcending to thoſe which are private and domeſtic, and to ſtate the ſeveral duties and temptations peculiar to each. It will probably not be expected that in a work of this kind a diſtinct part ſhould be ſpecifically addreſſed to thoſe, who are placed in the loweſt ranks of ſociety. By them argumentative and bulky treatiſes on morality will not be read. The careful peruſal of their bible, and the ſtudy of ſhort and familiar expoſitions of its precepts, aided by the public and private admonitions of their paſtors, are to them the principal ſources of inſtruction. Not but that the morals of the common people may be materially corrected, their underſtandings improved, and their miſconceptions rectified, with equal benefit to themſelves and to the whole community, by judicious attention on the part of their ſuperiors among the laity. To purſue thoſe objects with diligence, with perſeverance, and with a ſtudious regard to the difference of temporary or local circumſtances, practices, and opinions, is a moral obligation ſtrictly incumbent on all perſons in the higher claſſes; and one which will

will not paſs without further notice in the courſe of the following pages.

To the choice of this plan I was determined by a perſuaſion, that it offered the faireſt opportunity of effectually bringing home the duties of men to their underſtandings and boſoms. He who would read with indifference an abſtract enquiry into the nature of a particular duty, and the proper means of performing it, might be ſtruck with a faithful repreſentation of the occaſions on which the performance of that duty is required, the manner in which it is to be effected, and the pretences by which it is commonly evaded, exemplified in the occurrences which attend his own profeſſion and ſituation in life. Remarks, which in the former caſe he might probably have ſlighted as the reveries of ſpeculative theory, in the latter preſs upon his mind corroborated by the energy of authentic facts, of the truth of which he has had ocular and almoſt hourly demonſtration. I may likewiſe add as a further reaſon for adopting the method propoſed, that I do not recollect any ethical work in which a ſimilar plan is purſued with regularity, and at the ſame

time extended to any confiderable variety of fubjects.

There is however one imperfection infeparable from this mode of proceeding, which it may be requifite briefly to mention. No man acts in a fingle character; nor can all his duties be brought into one point of view. The member of the legiflature, the minifter of ftate, the counfellor, the merchant, is alfo a fubject, a hufband, a parent, a landlord, or a mafter. In order then to avoid the repetition of the fame obfervations under many different heads; a repetition which would only fwell the bulk of the performance without conveying additional information; I requeft the reader, of whatever defcription he may be, not to confine his attention to the chapter appropriated to the ftation or profeffion to which he belongs; but to confider thofe chapters (*b*) alfo which include the general duties of fubjects, and the efpecial obligations of private and domeftic life, as particularly addreffed to himfelf. If I fhould be told that remarks and directions will ftill be

(*b*) Chap. iv. and xiv.

found

found applied to perſons of one deſcription which equally appertain to thoſe of another; inſtead of ſheltering myſelf under the acknowledged impoſſibility of avoiding all defects in any undertaking, or pleading that the defect alleged is of no prominent magnitude, I might reply that it is a circumſtance which I ſcarcely deſire to be otherwiſe. For, as the matter now ſtands, even the curſory enquirer, who turns to a particular chapter from curioſity to know what is there ſtated concerning the profeſſion of which it treats, though a profeſſion in which he is not perſonally engaged; may chance to meet with obſervations, which he may perceive to be not altogether inapplicable to his own.

It remains only to add, that I have ſtudied throughout the ſubſequent chapters to avoid general cenſures, and indiſcriminate imputations, as altogether repugnant to candour and juſtice; and that in ſpeaking of the errors and faults of any particular profeſſion, I mean ſimply to note them as errors and faults to which perſons in that profeſſion are conſiderably liable, without in any degree deſigning to

intimate that they are chargeable on all or on moſt of the individuals belonging to it. If unguarded expreſſions ſhould occaſionally occur (and I can by no means expect entirely to have avoided them), they will be interpreted, I truſt, according to the explanation which I have now given.

CHAP.

CHAP. II.

GENERAL REMARKS ON THE FIRST PRINCIPLES OF THE BRITISH CONSTITUTION.

ATTRACTED by ſocial affections and ſympathies; drawn together by common weakneſſes and wants; familiarized during childhood to habits of intercourſe and ſubordination; diſcovering from reaſon and from experience, that the enjoyment of natural rights among unconnected individuals muſt be extremely limited and precarious; men have ſhewn the ſtrongeſt diſpoſition in every age to unite in civil ſocieties. So powerful has this propenſity evinced itſelf, ſo great and multifarious have been the acceſſions of ſecurity and happineſs which have univerſally reſulted from the union; that perhaps not a ſingle inſtance can be produced where men of honeſt views and ſober underſtandings, who have once been in poſſeſſion of the bleſſings of ſocial intercourſe, have ſpontaneouſly renounced all con-

nections

nections with their fellow-creatures. It has been the ruffian, prowling like the wild beast for his prey, or the enthusiast, dreaming that austerity is holiness, who has insulated himself in caves and deserts. Whenever by external circumstances a society once formed has been separated or dissolved; whether in patriarchal days the death of the common parent, or the deficiency of pasturage, induced the younger branches of the family to seek fresh habitations; whether in later times the calamities of inundations, of famine, of pestilence, or of war, the desire of foreign comforts, or the pressure of domestic miseries, have influenced men to abandon their place of residence, and broken asunder the ties by which they were united; the renewal of those ties in another land, or the establishment of similar connections, has always been the first and the darling object of those who survived the subverted community. Like globules of quicksilver dispersed over a polished surface, they have ever been seen in constant agitation and inquietude while distinct; hastening together, and with a continually accelerated velocity, when they have come within the sphere of each other's attraction; and,

whatever

whatever be the ſize of the maſſes into which they have gradually been combined, arranging themſelves in each round a common center.

The forms of government which have been inſtituted in different nations have been ſeverally decided by the operation of general cauſes powerfully affecting the human mind, as the climate and nature of the country; and by the influence of incidental circumſtances, as foreign invaſions, internal diſſenſions, and the character and fortune of particular individuals. Hence, in different ages of the world, and in communities ſtationed at different points in the ſcale of civilization, almoſt every conceivable variety has found a place. If we examine the condition of rude and uncultivated tribes, and thence advance to the contemplation of ſocieties in ſome degree more poliſhed and enlightened, we may trace the marks of a gradual progreſs from the loweſt ſtage of union, to the regular and ſtable form of a body politic. We may obſerve men held together by a tie ſo ſlight, as to conſtitute the ſimpleſt arrangement under which any thing deſerving the name of a ſocial connection can ſubſiſt; an en-

gagement mutually to aid each other in repelling the attacks, and retaliating the incurſions of enemies. But though ſocieties may have been originally eſtabliſhed in various inſtances on the baſis of this (*a*) inartificial contract; it is

(*a*) Dr. Ferguſon, in his Hiſtory of Civil Society, furniſhes examples of ſocieties preciſely in this ſtate. "Even "after nations have choſen a military leader, they do not "entruſt him with any ſpecies of civil authority. The "captain among the Caribbees did not pretend to decide "in domeſtic diſputes; the terms *juriſdiction* and *government* were unknown in their tongue."—Ed. 5. p. 166.— "Among the Iroquois and other nations of the temperate "zone, the titles of *magiſtrate* and *ſubject*, of *noble* and "*mean*, are as little known as thoſe of rich and poor.— "If their concerts muſt be ſuppoſed to conſtitute a ſpecies "of political government, it is one to which no language "of ours can be applied."—P. 141.

Captain Carver (ſee his Travels in the interior Parts of North America, 2d edit. p. 258) repreſents ſome ſavage tribes which he viſited as in a ſimilar ſtate at preſent. "Among theſe no viſible form of government is eſtabliſhed; they allow of no ſuch diſtinction as magiſtrate "and ſubject, every one appearing to enjoy an independ"ence that cannot be controlled. The object of govern"ment among them is rather foreign than domeſtic; for "their attention ſeems more to be employed in preſerving "ſuch an union among the members of their tribe as will "enable them to watch the motions of their enemies, and "to

is improbable that, except under very particular circumſtances, they ſhould continue long under ſo rude a form. The ſame general cauſes, which had induced men to enter into that ſlight connection, would ſpeedily allure them into one more cloſe and more beneficial. And as the numbers of a ſociety became enlarged, and a clearer inſight into the meaſures conducive to the general good was acquired

"to act againſt them with concert and vigour, than to "maintain interior order by any public regulations."—These tribes have continued to the preſent day exactly in the ſame ſtate in which the greater part of the inhabitants of North and South America were found by the Spaniards early in the ſixteenth century. See Robertſon's Hiſtory of America, 4th edit. vol. ii. p. 116—119.

The accounts given of the ancient Germans by Cæſar and Tacitus, of the Huns and Alans by Ammianus Marcellinus, and of the North American Indians by Charlevoix, which are brought into one point of view by Dr. Robertſon in his Hiſtory of Charles V. 8vo. vol. i. p. 246, &c. prove that in the nations reſpectively deſcribed by thoſe authors, ſociety had advanced few ſteps further at the time when the picture was drawn. The learned hiſtorian obſerves that, "while ſociety remains in this ſimple ſtate, men by "uniting together ſcarcely relinquiſh any portion of their "natural independence."

by

by experience and reflection (*b*), an additional number of reſtraints on the rights of individuals would evidently promiſe an increaſe of public happineſs. It would in conſequence appear expedient that various laws and inſtitutions ſhould be framed to regulate the objects of internal polity, the transfer and deſcent of property, the proof of crimes, and the in-

(*b*) Dr. Robertſon (Hiſt. Charles V. vol. i. p. 16), ſpeaking of the northern conquerors of Europe, remarks that "ſelf-defence was their chief care, and ſeems to have been "the *ſole* object of their firſt inſtitutions and policy;" but that afterwards, "inſtead of thoſe looſe aſſociations which, "though they ſcarcely diminiſhed their perſonal independ- "ence, had been ſufficient for their ſecurity while they "remained in their original countries; they ſaw the ne- "ceſſity of confederating more cloſely together, and of re- "linquiſhing ſome of their private rights, in order to at- "tain public ſafety."

The whole of Dr. Robertſon's View of the Progreſs of Society in Europe, with the notes and illuſtrations, contained in the firſt volume of his Hiſtory of Charles V. affords a very appoſite elucidation of this ſubject. The ſame author, in his Hiſtory of America, exhibits inſtances of civil government in various ſtages of its progreſs. See particularly his Account of the People of Bogota, vol. ii. p. 121—123; of the Mexicans, vol. iii. p. 159, &c.—and of the Peruvians, p. 209, &c.

fliction

fliction of punifhments; and be eftablifhed as binding on all who fhould choofe to be members of the community; that officers fhould be appointed to fuperintend the execution of them; that a public force fhould be conftituted for the purpofe of enfuring domeftic tranquillity by exacting obedience to the laws, and of repelling the attacks of invaders; and that a legiflative power, temporary or permanent, fhould be deputed to watch over the whole; and be invefted with the authority, fubjected to more or fewer limitations, of enacting fuch ordinances from time to time, as it fhould deem effential to the welfare of the rifing ftate. In proportion as events were more or lefs favourable to the diffufion of knowledge and refinement, a fhorter or a longer period would elapfe before a country could attain to any of the fettled modes of political adminiftration, which prevail among the polifhed nations of Europe.

Among the moral obligations incumbent on all men as accountable beings, there are fome which in different countries and on particular occafions affume different forms, point to different modes of conduct, and have to encounter

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the oppoſition of different temptations and impediments, in conſequence of peculiarities in the eſtabliſhed forms of civil government. No ethical work therefore, which profeſſes to treat of the duties of various claſſes of ſociety in Great Britain, can be complete as to its plan, unleſs it pays a marked attention to the British Conſtitution. The uſes of the principal parts of that Conſtitution will be diſtinctly noticed in ſubſequent chapters, in which the reſpective duties of the individuals compoſing the ſeveral branches of the Legiſlature will be diſcuſſed. The way however may be cleared for thoſe details, by a previous inveſtigation of ſome points of a more general nature. The preſent chapter therefore will be employed in aſcertaining thoſe leading principles, the obſervance of which political wiſdom ſeems to require as eſſential to the equity and good conduct of civil government; and in examining how far each of thoſe principles is obſerved in the exiſting (*c*) Conſtitution of this realm.

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(*c*) This expreſſion is uſed in the preſent chapter, in a ſenſe perhaps ſomewhat more extended than its uſual acceptation; not merely as characteriſing the form of government

In the discussion of this subject little more will commonly be necessary than briefly to state the principles themselves, with the grounds on which they rest. For a very slight degree of reflection will evince that they are fully comprehended within the general outline of the British Constitution; and the particular manner in which they are carried into effect will be more fitly investigated hereafter, when the functions of the several branches of the Legislature come to be distinctly considered. One or two points however will require rather more explanation.

1. The first principle dictated by political wisdom is this; that those fundamental rules be observed, which natural justice inculcates as the proper groundwork of all social institutions. For as far as these are violated or neglected, oppression will take place in the community; the members will gradually become more and more dissatisfied; and if the hard-

vernment by King, Lords, and Commons, but as including the general spirit of the laws, and of the principles which guide the execution of them.

ſhips undergone are not ſufficient finally to produce civil commotions, yet in proportion to their frequency and magnitude the proſperity of the State will be impaired and retarded.

That in the whole code of Britiſh Laws there is not an individual ſtatute, which men accuſtomed to the inveſtigation of moral principles can fairly charge with any deviation from the line of ſtrict juſtice, is a poſition for the validity of which it would be too much to contend. It is not likely that ſuch an aſſertion could be maintained with reſpect to any Government exiſting. But that the Britiſh Conſtitution bears in every part of it the broad and ſtrong characters of juſtice, is a truth ſo prominent and obvious, that it ſhould ſeem entitled to the immediate aſſent of every rational advocate for the duty of civil obedience, on whatever theory he may be diſpoſed to reſt the obligation. If he founds the rights of government on the genuine and ſolid ground of national conſent expreſſed or implied, he ſees that the Britiſh Government

——————*volentes*
Per populos dat jura——————;

that

that in each of the three branches it is ſanctioned not merely by the paſſive concurrence, but by the avowed and zealous approbation of the great maſs of the Community; that it is regarded with an attachment, which, being eſtabliſhed on the wiſeſt principles, and confirmed by the experience of ages, is, we truſt, more likely to increaſe than to abate, and may equally preclude from all hopes of ſucceſs the favourers of a republican form of government on the one hand, and the ſupporters of the indefeaſible rights of kings on the other. If he contents himſelf with looking to expediency alone, and meaſures the title of Civil Governors to the ſubmiſſion of their ſubjects ſolely by the ſcale of the general welfare; he diſcovers perſons and property ſecured, induſtry encouraged and rewarded, and public and private happineſs permanently enjoyed in Great Britain, in a degree ſcarcely if ever paralleled in any other part of the earth.

One leading circumſtance however in the Britiſh Conſtitution, the ſtate of Popular Repreſentation, has been repeatedly ſtigmatiſed as incompatible with the fundamental principles

of juſtice. It is undoubtedly true that a very large majority of the inhabitants of this kingdom has no elective voice in the appointment of the members of the Houſe of Commons; in other words, moſt of the people of Great Britain have no ſuffrage in the nomination of the perſons who are to enact the laws, by which non-electors in common with the reſt of the nation are to be governed. But the limited diffuſion of the elective franchiſe cannot fairly be affirmed to be neceſſarily a breach (*d*) of juſtice. The right of voting for a member of parliament is a *public truſt*; it is as truly a civil office as the moſt conſpicuous employment in the State; and, humble as it may ſeem, is a civil office of conſiderable importance. All public offices and truſts being conſtituted in this kingdom for the general good of the whole; it is juſt that they ſhould be conferred under ſuch political conditions as the general good may demand; and be devolved to thoſe perſons alone, who poſſeſs the political qualifications deemed eſſential to the proper diſcharge

(*d*) Whether the limitation of the right of voting be repugnant to ſound policy, is a queſtion which will be conſidered hereafter in its proper place.

of the duties attached to them. Of theſe conditions and qualifications the nation is the judge. In exerciſing its judgment, it is bound not to eſtabliſh invidious diſtinctions founded on unreaſonable and partial grounds of preference. The medium which ought to be ſtudied in the eſtabliſhment of every civil qualification is to lay no greater reſtraint on the rights of any individual than is manifeſtly deſirable for the general benefit of the community. But when the nation has fixed according to its beſt views of public utility the terms on which each public office ſhall be conferred, and the deſcription of perſons to whom it ſhall be entruſted; no man who is deſtitute of the civil qualifications preſcribed has any plea for complaining of injuſtice in being precluded from filling the poſt. It would be as unreaſonable in a perſon thus diſqualified to contend that he is treated with injuſtice in not being permitted to be an elector, as it would be to affirm that he is unjuſtly treated in not being permitted to be king. The king and the elector are alike public officers; and the nation has the ſame right to appoint citizens of a particular deſcription to chooſe members of parliament, as

it has to appoint a particular family to occupy the throne.

We have alſo heard of late a direct charge of injuſtice urged againſt the whole of the Britiſh Conſtitution, on the ground of the Government being hereditary. The ſubſtance of the argument is, that to eſtabliſh a particular family with hereditary powers is deſpotiſm, becauſe it operates to preclude the conſent of ſucceeding generations; that the generation which firſt ſelects a perſon, and inveſts him with ſovereignty, acts according to its own free determination, and lives under a Government choſen and eſtabliſhed by itſelf; but in eſtabliſhing hereditary ſucceſſion it aſſumes a character to which it has no right; it changes itſelf from a Legiſlator to a Teſtator, and affects to make its will, thereby to take from each ſubſequent race of men the right which itſelf had exerciſed, of chooſing any form of government deemed adviſable, and to force on them a previouſly appointed form againſt their conſent (*e*).

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(*e*) Had they, who urge this argument, pointed their accuſations not againſt the abſtract inſtitution of hereditary

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This argument would prove, were it valid, much more than they who allege it apprehend or desire. It would prove the inherent injustice not only of hereditary Government, but of all Government. Generations of men, similar as the individuals who compose them may be to the leaves *(f)* of the forest in short-lived glory, are not like them swept away together by the sudden desolation of autumn, and replaced by a new succession bursting at once into life in the spring. According to the fixed order of nature, they decay, and are renewed, by a gradual and almost imperceptible change; the parent disappears, but his offspring already supplies his place: death seizes every indivi-

Government, but solely against the language of some of the Acts of Parliament by which it is established in this kingdom, it must be admitted that a reply would have been difficult. Statutes which describe the people of a country as "most humbly and faithfully submitting themselves, "*their heirs and posterity for ever*," to any particular family; or as "binding themselves, *their heirs and posterity*, to that "family, its heirs and posterity," or to any particular form of government whatever, "*to the end of time*;" profess to dispose of the rights of succeeding generations, which are beyond the reach of their control; and afford an example of language equally extravagant and nugatory.

(f) Οιη περ φυλλων γενεη, τοιηδε και ανδρων. HOM.

dual in his turn, but in the midſt of his ravages the ſociety continues to exiſt in undeclining vigour. It would follow then from the principle on which the injuſtice of hereditary power is attempted to be proved, that on the very firſt moment after the eſtabliſhment of any Conſtitution, when a ſingle individual of the country, who at the time of its being eſtabliſhed was a child under the control of his parent, ſhould attain to years of diſcretion, and become entitled to the common rights of men, the injuſtice of the Government would commence. To him the Government, had it been ſettled but a week or a day, would be hereditary; "it would operate to preclude his conſent, and would be a "deſpotiſm." Not neceſſarily ſo, it may perhaps be replied; the young man might freely conſent to accept the form of government with which he would ſee all around him ſatisfied. Undoubtedly he might; but does not this conceſſion furniſh a complete anſwer to the charge of injuſtice urged againſt the inſtitution of hereditary power? Does it not point out the way by which the juſtice of our own Government, though hereditary, is rendered inconteſtable, on the very principle on which it is queſtioned?

ed? Confent given by every native of Great Britain in his turn, when he arrives at the age of difcretion, to the government which he finds adopted by his countrymen; and expreffed by his continuing in the land, and voluntarily accepting the protection of the State, with entire confcioufnefs that it is afforded to him only on the reciprocal condition of obedience to the laws; conftitutes him fully and juftly a Britifh fubject. No compulfion was ufed or threatened; the act was entirely his own. Had he been averfe to acquiefce in the Conftitution fanctioned by his countrymen, the world was before him, and he was at liberty (*g*) to depart. He is not fubject to the Government becaufe his anceftors obeyed it; but becaufe he has voluntarily engaged to obey it himfelf.

The

(*g*) There is at prefent no act of parliament in force prohibiting anyperfon whatever from going out of the kingdom at his own difcretion; the laft ftatute to that effect having been repealed in the reign of James I. Blackftone's Comm. 10th edition, vol. i. p. 266. And "by the com-"mon law every man may go out of the realm for what-"ever caufe he pleafeth without obtaining the king's leave, "provided that he is under no injunction of ftaying at "home; which liberty was exprefsly declared in king "John's

The true ſtate of the matter is this. The inſtitution of any particular form of government, hereditary or otherwiſe, lays before each ſucceeding member of the community a conſiderable inducement to accept it, from the very circumſtance of its being eſtabliſhed, and from the inconveniences which would attend a removal to another country. The more excellent the Conſtitution, the ſtronger will the inducement be; but compliance with it is a voluntary act. Similar inducements are inſeparably connected with every human inſtitution, whether public, private, or domeſtic. And he who on that ground charges his anceſtors with injuſtice in thus ſetting before him an hereditary Government, might with equal reaſon complain, that by the erection of houſes and the introduction of agriculture they had "de-

"John's Great Charter." Blackſtone, vol. i. p. 265. And though "becauſe every man ought of right to *defend* the "king and his realm, therefore the king at his pleaſure "may command him by his writ that he go not out of "the realm without licence;" (Blackſtone, ibid.) no man will think it probable that individuals diſſatisfied with the eſtabliſhed Conſtitution of their country will ever be conſtrained to ſtay that they may be employed in defending it.

"ſpotically

“ſpotically precluded him” from living in a cave and feeding on acorns.

2. Political wiſdom requires the exiſtence of a legiſlative body; and that ſome efficient part of the Legiſlature be appointed by the people, and ultimately ſpeak their ſenſe.

If there be no legiſlative body, the government is the deſpotiſm of an individual. If there be a legiſlative body wholly appointed by an individual, he is ſtill deſpotic, though circuitouſly. If the legiſlative body be hereditary, or ſelf-appointed, where there is no monarch, it is a deſpotic ariſtocracy; where there is a monarch, it becomes excluſively deſpotic by enſlaving him, or partaker of a joint deſpotiſm by confederating with him.

Theſe evils are precluded by aſſigning to the people, as is the caſe in Great Britain, the appointment of one branch of the Legiſlature, formed in ſuch a manner as that it ſhall finally ſpeak their ſenſe, whenever that ſenſe is decided and permanent; and armed with ſufficient powers ultimately to enſure ſucceſs, under thoſe circumſtances, to its determination.

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To give full ſecurity to the people, the right of elective ſuffrage ſhould be conferred on great numbers, and ſhould be eaſily attainable. Thus in Great Britain the electors amount to ſome hundred thouſands ; and beſides the multitudes who may acquire the right of voting in boroughs by various methods, every man may purchaſe a vote for a county, who can pay for a piece of land worth forty ſhillings a year.

It is a thing by no means unreaſonable in itſelf, or repugnant to the liberal ſpirit of political wiſdom, that the Conſtitution ſhould require a large portion of thoſe who chooſe to live under its protection, to be ſatisfied without poſſeſſing a voice in the appointment of their immediate legiſlators. The grand object to be had in view in imparting the elective franchiſe is to ſecure, as far as may be poſſible, the choice of proper repreſentatives. By this conſideration alone the number and deſcription of electors ought to be regulated. That the deſcription of electors in Great Britain might in ſome reſpects be altered with great advantage to the public, ſo as to produce, often perhaps a better choice of a repreſentative, and ſtill more frequently a

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very important diminution of corruption, profligacy, and vice, cannot, I think, be reaſonably doubted. But if the conſideration already ſtated undeniably requires, on the one hand, that the whole number of electors in the kingdom ſhould bear an adequate proportion to the amount of the inhabitants; it ſeems equally to require, on the other, that the right of voting ſhould be confined to men competent, and likely to diſcharge the truſt committed to them in a manner conducive to the public good. If we reflect on the uninformed condition of multitudes in the lower ranks of ſociety; on the blind deference which they commonly pay to the will of their immediate ſuperiors; on the temptations they are under of being corrupted by bribes; on the facility with which they may be deluded by artful miſrepreſentations and inflammatory harangues; on the difficulty of preventing confuſion and riots in popular aſſemblies ſpreading over the face of a whole kingdom; on the rapidity with which tumults excited by deſign or accident in one aſſembly would be communicated by contagion to another, until the country would be agitated with general convulſions: if we reflect on the dangers to be dreaded

dreaded from theſe and other circumſtances which would attend the plan of univerſal ſuffrage, we ſhall probably ſee great reaſon to rejoice that the elective right is limited under the Britiſh Conſtitution. And we are not to forget that, if any inconveniences and hardſhips are to be apprehended in conſequence of limiting it, they are neceſſarily much diminiſhed, if not altogether removed, by the very ſmall ſhare of property requiſite to procure the privilege of voting for county members.

3. The Legiſlature of every well regulated State ought to be ſo conſtructed that the members of it may have a common intereſt with the reſt of the community; it ſhould be compoſed of men belonging to various claſſes and profeſſions; and ſhould be open in all its parts, and on all occaſions, to the petitions and repreſentations of the people.

It is obvious how neceſſary the obſervance of theſe rules is to the welfare of the whole community, and to the intereſt of each particular claſs of citizens. And it is no leſs obvious with what marked attention they are regarded in the Britiſh Conſtitution.

4. Le-

4. Legiſlative aſſemblies ſhould be conſiderably, but not immoderately, numerous; they ſhould enjoy perfect freedom of debate; and ſhould be regulated in their proceedings by ſuch forms as may enſure a full and deliberate inveſtigation of each ſubject which comes before them, and at the ſame time admit of accelerated deciſions in critical emergences.

If a legiſlative aſſembly conſiſts of few members, it wants the wiſdom which reſults from the collected counſels of many able men; it is apt to become arbitrary in its proceedings; and is more within the reach of ordinary corruption. If it is extremely numerous, it becomes tumultuous and diſorderly in its diſcuſſions, intemperate and capricious in its reſolves; and each member is liable to act leſs under the reſtraints both of conſcience and of ſhame, truſting that the miſconduct of an individual will not be diſcerned in the crowd, or will be obliterated by the multitude of ſimilar examples. The remainder of the rule requires no explanation.

With reſpect to each of the particulars ſpecified in this rule, the Britiſh Conſtitution evidently merits the higheſt praiſe.

5. Legiſlative bodies ought to be ſo far renewed from time to time as to prevent them from degenerating into tyrannical oligarchies; and in ſuch a manner that the change, or courſe of ſucceſſion, in any part of them, ſhould take place without confuſion, tumult, ſtoppage of public buſineſs, or interruption of the eſtabliſhed form of government.

The policy of this rule is ſufficiently manifeſt. The requiſite change and renewal in the Britiſh Legiſlature is attained by the limited duration of parliament. And as it is made in that branch of the Legiſlature which is appointed by the people; thoſe dangers are prevented, which otherwiſe might have been dreaded from the hereditary power lodged in the other branches. Strict laws are in force to prevent diſorders at elections; and the Conſtitution has provided that not even the death of the ſupreme magiſtrate ſhall afford room for ſedition and anarchy, or create any material impediment to the progreſs of public buſineſs. In the eye of the law the throne is never vacant; but from the moment (*h*) of the death of

(*h*) Blackſtone, vol. i. p. 249.

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its poſſeſſor is ſuppoſed to be filled by his heir. Further, on the death of any king or queen, "the parliament in being ſhall continue for "ſix months, unleſs ſooner prorogued or diſ-"ſolved by the ſucceſſor; if the parliament be "at the time of the king's death ſeparated by "adjournment or prorogation, it ſhall not-"withſtanding aſſemble immediately; and if "no parliament is then in being, the members "of the laſt parliament ſhall aſſemble and be "again a parliament (*i*)." In like manner "the "privy council ſhall continue for ſix months "after the demiſe of the crown, unleſs ſoon-"er determined by the ſucceſſor (*k*)." The judges too, by an act of parliament paſſed in the reign and at the recommendation of our preſent Sovereign, are continued in their (*l*) offices notwithſtanding any demiſe of the Crown. And all the great (*m*) officers of State, and in general all officers civil or military throughout the whole Britiſh empire, continue in office for ſix months after the king's demiſe, unleſs ſooner removed by the ſucceſſor.

(*i*) Blackſtone, vol. i. p. 189. (*k*) Ib. p. 232.
(*l*) Ib. p. 268. (*m*) By 6 Anne, c. 7, clauſe 8.

6. The Legiſlative and Executive Powers ought to be diſtinct.

If the ſame individual poſſeſſes the excluſive power of enacting and adminiſtering the laws, he will be influenced in framing them by a reference to the perſons whom he foreſees that they will affect. Hence, inſtead of being founded on comprehenſive principles of juſtice, and directed to the general good of the State, they will continually be fabricated for the purpoſe of gratifying the private animoſities and promoting the ſelfiſh ends of the Legiſlator. Tied down to no precedents, ſubjected to no ſuperior juriſdiction, nor limited by any coordinate authority; he can at pleaſure ſtrain the interpretation of an exiſting ſtatute, or create a new one, to cruſh the moſt virtuous member of the community who may have offended him, or to ſcreen a criminal partiſan of his own. If the legiſlative and executive functions be veſted in the ſame body of men, this reaſoning will be equally applicable.

The Britiſh Conſtitution has guarded againſt theſe dangers by committing the office of enacting laws to Parliament, and of executing them

to the Sovereign. The consent of the latter is requisite in all acts of legislation; but the evils which have been specified are precluded by the previous and concurrent sanction of the Houses of Lords and Commons being essential to the existence of every law. Statutes are enacted by the British Legislature without its being in general possible to foresee on whom they may attach; and must unavoidably be executed by the judicial officers (*n*) of the Crown without

(*n*) Sir William Blackstone justly observes, that it is of the highest importance to the security of freedom, that the actual exercise of judicial authority should be committed to persons neither removable at the will of the Crown, nor acting in other capacities as its immediate servants. After noticing the evils which would arise if the administration of common justice were joined with the legislative power, he adds: "Were it joined with the executive, this "union might soon be an overbalance for the legislative. "For which reason, by the statute of 16 Car. I. c. 10, "which abolished the Court of Star-Chamber, effectual "care is taken to remove all judicial power out of the "hands of the King's Privy Council; who, as then was "evident from recent instances, might soon be inclined "to pronounce that for law, which was most agreeable "to the prince or his officers. Nothing therefore is more "to be avoided in a free country than uniting the pro-"vinces of a judge and a minister of state." Vol. i. p. 269.

reſpect of perſons. And though the Conſtitution, in order to prevent the detriment to the public, and the private hardſhips which would reſult on particular occaſions, from an uniform application of general rules, has wiſely intruſted the Sovereign with the power of remitting puniſhments; it has with equal wiſdom laid various (*o*) reſtrictions on the exerciſe of this privilege, that it may not be employed in ſuch a manner as to give encouragement to vice; or to become dangerous to public liberty.

7. The Executive Power ſhould be one; it ſhould be armed with ſufficient authority to enforce obedience to the laws, and to fulfil the other functions with which it is intruſted; and ſhould at the ſame time be deterred from an unjuſt or unwiſe uſe of its prerogatives, by being ſubjected to a proper degree and a proper kind of control and of reſponſibility.

Whatever may be the caſe with regard to petty States, there ſeems little reaſon to expect

(*o*) See theſe reſtrictions enumerated, Blackſtone, vol. iv. p. 398—401.

that

that the affairs of a great empire will be permanently conducted at home and abroad with the requiſite vigour, ſteadineſs, diſpatch, and tranquillity, unleſs the ſuperintendency and control of the whole executive department be committed to a ſingle perſon.

In Great Britain the powers of the Sovereign are proved by experience adequate to the diſcharge of the duties impoſed upon him. If an unforeſeen emergence ſhould ever require ſome temporary and conſtitutional extenſion of them, the Parliament is authoriſed to grant it.

In Monarchical Governments, it would be equally difficult and unwiſe to inflict perſonal puniſhment on the ſupreme magiſtrate for neglect of duty, or breach of truſt. The attempt, even when the crime was inconteſtable, would commonly produce a civil war. Beſides, the Sovereign, were he expoſed to the poſſibility of puniſhment like a common criminal, would ſcarcely be able to retain the reſpect of his ſubjects in a degree ſufficient to enſure reſpect to the laws. If guilt on his part ſhould be manifeſt, and paſs unpuniſhed,

he would be encouraged to greater enormities; if puniſhed, and in a way ſhort of death, either the diſgrace which he had undergone would diſqualify him from filling the throne afterwards with dignity and effect; or the public compaſſion, excited by his humiliation and encouraged by his adherents, would turn the tide of popularity beyond meaſure in his favour, and enable him not only to wreak his vengeance on the authors of his puniſhment, but perhaps even to aſſume arbitrary power. For theſe reaſons, among others, it ſeems the part of wiſdom to ſuffer no penalty to impend over the Monarch himſelf, except the forfeiture of the crown in extreme caſes; and to guard againſt his poſſible miſconduct or treachery, by making the public concurrence of his miniſters indiſpenſable to the validity of his proceedings, and rendering them ſtrictly reſponſible for the counſel which they give, and the commands which they execute. This method is adopted in the Britiſh Conſtitution.

8. The expenditure of public money ſhould be brought to open account.

The

The policy of this rule, and the obſervance of it in Great Britain, are equally apparent.

9. The proceedings of courts of juſtice ſhould be public; and juſtice ſhould be adminiſtered with as little delay and expence as may be.

In the adminiſtration of juſtice the firſt requiſite is that it be impartial. That the courts of juſtice in Great Britain are equally open to the poor *(p)* and to the rich, to the ſubject and

(*p*) There is one deſcription of Britiſh ſubjects who are by no means equally protected with their fellow-citizens in the enjoyment of liberty: thoſe namely, who are liable to be ſeized by a preſs-gang, and compelled to ſerve on board a man of war, even at the very moment when they are returning to their families after ſeveral years of abſence, ſickneſs, and toil, in diſtant quarters of the globe. If any argument can in ſome inſtances reſcue the practice of impreſſing ſeamen from the charge of direct injuſtice, it muſt be this; that they who follow a ſeafaring life are previouſly aware of that attendant hardſhip, and may therefore be regarded as having conſented to the riſk of undergoing it. A ſimilar argument may in ſome meaſure perhaps be extended to the caſe of landmen occaſionally impreſſed. At any rate, however, this plea for the juſtice of impreſſing mariners is extremely defective. The occupa-

and to the monarch; and that in general the decifions are formed and the laws adminiftered with as great a degree of uprightnefs and wifdom as it is poffible to expect in a human tribunal, are truths univerfally acknowledged. The appointment of judges of the fupreme

tion of a feaman is often the allotment of friends and relations during his childhood. And when choice takes place, it is frequently at a thoughtlefs age, and when the hazard of fervitude is not likely to be ferioufly weighed. It is not only the liberty of the failor which fuffers by the imprefs fervice; his property is equally expofed to injury. Time for beneficial labour is to him property. And, when on board a man of war, he incurs fuch a lofs by the fmallnefs of his wages compared with thofe which he might have gained in a merchant's fervice, as is by no means compenfated by the chance of prize-money, or by any other advantages of his new fituation. The practice in queftion, befides being chargeable with injuftice, is likewife fo repugnant to the fpirit of freedom and of humanity, and fo little congenial to the general principles of the Britifh laws, that the nation muft be inexcufable fhould it continue it on the mere ground of *faving expence*. By ferious deliberations on the fubject renewed from time to time, and by a careful review of the meafures adopted in foreign countries to anfwer the fame purpofe, it would furely be poffible to devife fome plan for manning the navy, which would not be liable to fuch weighty objections, and would afford a fatisfactory profpect of fecuring the public fafety.

courts

courts rewarded with ample ſalaries, and removable from their office only on the concurrent application of both Houſes of Parliament; the admirable inſtitution of juries; and the permiſſion of new trials in a variety of caſes, are among the precautions by which the Conſtitution has wiſely endeavoured to ſecure this momentous object. Yet all its precautions might have been found ineffectual, had it not been for that publicity in judicial proceedings which is eſtabliſhed in this country; a publicity which renders the conduct of each judge during the whole courſe of a trial, as well as his final deciſion, known not only to the parties concerned and their agents, but to all perſons whatever who have the curioſity to be preſent; and to the members of the legal profeſſion who crowd round the tribunal, anxious to mark his behaviour and determination, and too diſcerning not to diſcover any material impropriety in either. This publicity is in effect rendered univerſal by means of the preſs, which in all caſes of importance conveys a detailed account of judicial tranſactions to every quarter of the kingdom.

When

When the impartial adminiſtration of juſtice is enſured, the next requiſite is the avoiding of unneceſſary delay and expence. For the reaſons which have been ſtated in the laſt paragraph, the publicity of our courts tends likewiſe to deter the judge from interpoſing needleſs, vexatious, and burthenſome delays before he brings the cauſe to a concluſion. The Habeas Corpus Act and various other excellent proviſions of law contribute to the ſame general purpoſe. The ſpeedy and cheap diſtribution of juſtice is alſo conſulted in this kingdom by the appointment of local officers and magiſtrates empowered to decide, under due reſponſibility, cauſes of inferior moment; and by the half-yearly circuits of the judges to determine all matters of conſiderable importance. For the purpoſe of providing able and upright expounders of the laws, and enſuring equitable, wiſe, and concordant deciſions throughout the community, it is highly expedient that there ſhould be a few ſtationary courts of judicature inveſted with extenſive juriſdiction, yet ſubjected to one ſupreme court of appeal. Theſe courts are naturally fixed in the metropolis. The preſſure of buſineſs of

various

various kinds which comes upon them from every part of the country, and the multiplicity of forms uſeful on the whole, but frequently inconvenient and injurious in particular caſes, with which they are now encumbered, occaſion great dilatorineſs and heavy charges in the progreſs of many of the ſuits which are brought before them. But theſe evils are far more than compenſated to the public by the benefits reſulting from the inſtitution. Perhaps however it might be found, were the inveſtigation committed to competent and diſintereſted enquirers, that much time and money might be ſaved to the contending parties, without any riſk of ſubſtantial juſtice, by the abolition or alteration of certain forms now become uſeleſs, and by ſimplifying proceedings unneceſſarily complicated and prolix.

10. The freedom of the preſs ſhould be checked by no laws which are not indiſpenſably neceſſary for the reſtraint of malevolence and vice ſeeking to ſubvert the public tranquillity or the happineſs of private life.

That Government which dares not allow its

own

own laws and proceedings, and the conduct of the courts of justice, to be fairly discussed by the public, betrays its weakness or its guilt. In Great Britain the freedom of the press is become as it were a part of the Constitution. And with respect to the precautions indicated by the rule as expedient for the purpose of curbing its licentiousness, Englishmen have reason to rejoice that the case of every person charged with a libel, whether of a public or of a private nature, is submitted to the decision of a jury, fully empowered to take into the account, in this as in any other criminal charge, the intention of the party accused.

11. Finally, every Constitution of Government is radically and dangerously defective, which does not contain within itself the means of remedying without tumult and national disorder the imperfections in its frame which experience may bring to light; and of correcting the abuses which time and accidents may introduce into the administration of public affairs.

Whoever considers the power, which every member of either House of Parliament possesses,

sesses, of proposing in his place such measures as he deems advisable, and the power of the Legislature as to adopting the measures proposed, will not impute this defect to the British Constitution. And the imputation, were it brought forward, would be repelled by a reference to the many great improvements which have been (*q*) peaceably

(*q*) The improvements made in the British Constitution by Magna Charta and Charta de Foresta (Blackstone, vol. iv. p. 423), and by several other charters and public acts, in the earlier period of our history, do not fall within this description, having been obtained, principally or entirely, by means of successful insurrections. But among the happy changes quietly effected in the manner pointed out by the Constitution itself, we may particularly mention the enacting of the Petition of Right in the reign of Charles I. "by which," Sir William Blackstone observes (vol. iv. p. 437), "the English Constitution received great alteration "and improvement;" the Habeas Corpus Act, and the abolition of military tenures, in the reign of Charles II.; the Bill of Rights and the Toleration Act about the time of the Revolution. And to speak of the reign of his present Majesty, the completion of the independency of the Judges, the extension of the rights of citizens to Roman Catholics, the recent bill respecting libels, and the decision of Parliament that its dissolution does not abate a pending impeachment, may be regarded as acquisitions of the most salutary nature, and highly beneficial to the Constitution of the realm.

made in the Conſtitution at different periods reaching even to the preſent times. No human work can attain perfection; nor is any human work carried nearly to that degree of excellence which it is capable of attaining, but by the exertions of growing wiſdom continued through the lapſe of ages. In proportion as we ſurvey the governments and the internal condition of the greater part of the civiliſed world, we ſhall ſee additional reaſon to be thankful to Providence for having caſt our lot under the Britiſh Conſtitution. And we have cauſe ſtill further to rejoice, that a regular method of removing any remaining defects in the Conſtitution and the Laws (and every good man ſhould be anxious for the quiet removal of all of which he is conſcious) is provided and indicated by the Conſtitution itſelf. The humbleſt and the pooreſt ſubject may carry his complaints to the Britiſh Parliament. And if once the ſenſe of the nation be decidedly formed, and permanently expreſſed, concerning the injuſtice or impolicy of any particular law; the public voice will reach every branch of the legiſlature, and obtain that change in the ſyſtem which moral duty and the general welfare demand. It is thus

thus that improvements have been made in the Conſtitution for centuries paſt; and it is thus, we truſt, that they will continue to be made for centuries to come.

CHAP. III.

ON THE DUTIES OF THE SOVEREIGN.

BEFORE we commence our enquiry into the duties incumbent on Englishmen, either in consequence of their common situation as subjects and fellow-citizens, or of their peculiar stations, professions and employments; it is necessary to advert to the offices of the Chief Magistrate whom the Constitution has placed on the throne. His power of influencing the public happiness is as great as his station is exalted.

The remarks to be made on the duties attached to royalty, may not improperly be preceded by a statement of the principal advantages resulting to Great Britain from the monarchical branch of the Government.

By lodging the supreme executive power in the hands of a single person, subjected to the superintending control of the Houses of Parliament,

Parliament, and to the checks arifing from minifterial refponfibility (*a*); the Conftitution has precluded, as far perhaps as any poffible contingency in human affairs can be faid to be precluded, thofe civil conflicts, by which the happinefs and liberty of other ftates have been fubverted. The noble, however afpiring; the demagogue, however turbulent; the general, however renowned for his victories, fees every channel obftructed, by which he might hope to raife himfelf to dominion over his fellow-citizens. Every ambitious project is extinguifhed by the abfence of all probability of fuccefs. The fplendid prize of empire is already beftowed by the nation on its chofen Sovereign. In Rome, and other ancient republics, the want of a common fuperior encouraged popular and military leaders fucceffively to aim at rendering themfelves mafters of the State; until the people at length fought a refuge from the miferies brought upon them by the diffenfions of the contending chieftains in fubmiffion to abfolute defpotifm. The eftablifhment of a limited monarchy, by preventing

(*a*) Vide fupra, p. 38.

ſimilar calamities and a ſimilar termination of them, is one of the ſtrongeſt ſafeguards of Britiſh freedom.

By the ſame wiſe arrangement the Conſtitution has likewiſe provided againſt the ruinous effects of quarrels and conteſts between the Houſes of Lords and Commons; againſt the reciprocal encroachments of thoſe houſes on the privileges of each other; and againſt the encroachment of either houſe on the rights of the people. Like the keyſtone of an arch, the Monarchy binds together with compreſſive energy the whole frame of Government; and unites it into a firm and well-cemented fabric, every part of which maintains its proper place. By the power of diſſolving Parliament, the Crown is at all times enabled to put an end to any projects which a Houſe of Commons may be puſhing into execution in oppoſition to the national will and the public good. By the power of adding without limit to the Peerage, it is no leſs qualified to curb any unjuſtifiable attempts of the Houſe of Lords. In critical emergencies it will commonly happen that the Sovereign will be ſufficiently impelled by conſiderations

ſiderations of perſonal intereſt to reſort to theſe meaſures; conſcious as he muſt be, that if either of the Houſes were on the point of gaining an unconſtitutional aſcendancy over the other, he muſt effectually interpoſe to maintain the balance, or expect ſpeedily to ſee the banners of the victor diſplayed over the ruins of royal authority. He would be equally prompted by ſimilar motives, and equally enabled by the prerogatives already mentioned, to break any combination formed by the two Houſes for the acquiſition of dominion. And if we reflect on the immenſe revenues of this country, and the enormous patronage reſulting from the civil, military, naval, financial, and other eſtabliſhments; we ſhall ſee ſtrong reaſon to believe, that if the monarchical branch of the legiſlature were annihilated, and the diſpoſal of theſe revenues and of this patronage were committed to either Houſe, or to both Houſes of Parliament; the event, whether of their conflicts or of their confederation, would be, that the Government of this kingdom would center in an ariſtocratic body, armed with inexhauſtible reſources to ſecure the perpetuity of its own ſway, and deſpotically to hold the people in ſubjection.

 From

From the unity of the Executive Power we may naturally expect freedom from corruption in resolving on measures to be pursued; secrecy in negotiating treaties, and in concerting military operations; and universally, vigour and dispatch in enforcing the laws at home, and in the conduct of public affairs abroad.

The Constitution likewise ordains, that the British Crown shall descend in a fixed order of hereditary succession. The wisdom of this determination is incontrovertible. Whatever evils may occasionally arise from the sceptre falling into inefficient and improper hands; they are nothing in comparison with the miseries to which the subjects of an elective monarchy are exposed without intermission, from the cabals, foreign as well as domestic, which uniformly take place during the life of each occupier of the throne, and the civil wars which frequently rage upon his death. These miseries are aggravated by the additional considerations, that the Crown will seldom be placed by the violence of popular party, or by the final decision of the sword, on a head

more

more worthy of it than that on which it would have devolved, had the principle of hereditary ſucceſſion been adopted; that the fortunate competitor will commonly treat one part of his people as friends and allies, the other as vanquiſhed enemies; and that the frequent recurrence of elections to the throne will not improbably terminate in the country's being deprived of its liberties, either by being annexed to the territories of potent neighbours, or by the eſtabliſhment of a military deſpotiſm at home. We have recently ſeen the Poliſh nation taught by fatal experience to ſeek for tranquillity and ſubſtantial freedom in the change of an elective to an hereditary Crown; and have beheld with grief and abhorrence the iniquitous meaſures which have rendered its plans abortive.

The functions of the Sovereign are now to be conſidered.

The Britiſh nation delegates the power of making the laws, by which the whole empire is to be governed, to three branches, as they are termed, in this reſpect of co-ordinate au-

 thority:

thority: the King, the Houſe of Lords, and the Houſe of Commons. The right indeed of originating Acts of Parliament is, with the ſingle (*b*) exception of Acts of Grace or Pardon, committed excluſively to the two latter; but the united aſſent of all the branches of the Legiſlature is eſſential to the exiſtence of a law.

Though the Conſtitution authoriſes the King to recommend certain meaſures to the conſideration of Parliament, as well in perſon as through the medium of his Miniſters; yet, with the exception already noticed, it does not ſuppoſe him to know any thing, in his official capacity, of Bills, until they are preſented to him after having received the aſſent of both Houſes; and conſequently prohibits him from all interference reſpecting them during their paſſage through either.

The legiſlative authority of the Crown has

(*b*) "When an Act of Grace or Pardon is paſſed, it is "firſt ſigned by his Majeſty, and then read once only in "each of the Houſes, without any new engroſſing, or "amendment." Blackſtone, vol. i. p. 184.

been

been exercifed for a confiderable period folely in approving the Bills prefented by the Lords and Commons; infomuch that its power of negativing them, though indifputably conftitutional, is not only regarded as a dormant right, but would probably be attended, if exerted, with very general odium. Whether the public welfare might be promoted in fome conceivable cafes by the revival of the royal negative, would be a queftion which might give birth to great variety of opinion. Yet it is clear, on the one hand, that in a free country the Chief Magiftrate neither ought, nor would in fact find himfelf able, finally to refufe his affent to any juft meafure propofed to him by the other branches of the Legiflature, and permanently demanded by the voice of the nation. And on the other hand it is not to be denied, that the rejection of an obnoxious Bill by a direct negative would be a meafure far lefs injurious to the public good, than its defeat by fecret and unconftitutional influence. The one ftep would at leaft be an open and manly exercife of a legal right; the other by its very concealment would betray the confcioufnefs of guilt; and would tend in its

effects to extinguish public spirit, to encourage future venality, and to subvert the foundations of national freedom.

In this kingdom, and in every land where genuine liberty is established, whatever be the form of its government, and the denomination of its public officers, it is the steady voice of the people which decides what shall be law. This degree of popular weight is not the incidental result of a free Constitution; it is essential to the Constitution's being free. While such is the state of the Constitution of Great Britain (and no man who is a friend to the true dignity of the throne or to the happiness of the subject can wish it otherwise), the actual power of the King will consist in the influence which he possesses over the mind of the people. And not only the beneficial effects, but the absolute degree, of that influence will depend on the manner in which he discharges the public functions committed to him by the laws; and avails himself of that pervading ascendancy, that undefinable but energetic control over men and manners, which results from his elevated station.

The

The peculiar duty of the Sovereign is to promote the glory of God by promoting the true welfare of the people over which he reigns. The moſt obvious means by which it is to be diſcharged are, the care of the public ſafety, and the improvement of the public morals. The virtue of a nation is indeed ſo cloſely connected with its real ſecurity, that every ſtep which contributes to improve the former, tends to confirm the latter. The ſeveral prerogatives and offices of Royalty may be rendered inſtrumental to the attainment of both theſe objects.

In every free and well-regulated Government, the Sovereign will neither find himſelf compelled permanently to employ in the adminiſtration of public affairs men whom the ſhort-lived vehemence of a faction may force into office; nor able to perſiſt in refuſing to accept as his ſervants thoſe whom the voice of the nation, clearly and ſteadily expreſſed, ſhall recommend. Notwithſtanding the deference which is paid by the Monarch of this country, and, except under extraordinary circumſtances, ought to be paid, to the wiſdom of the Houſes of

of Parliament; he has very confiderable power with refpect to the choice of his minifters. To felect from the affemblage of public characters with which he is converfant, thofe who are moft diftinguifhed for integrity, for public fpirit, for underftanding, for induftry; to appropriate to each department of the State men endowed with talents moft adapted to its peculiar bufinefs; to unite in each of his fervants, as far as the emergences of national affairs may permit, purity of private morals with the luftre of official abilities; thefe are bleffings which no King of Great Britain, who has the zealous difcharge of his duty at heart, will find himfelf often precluded from rendering to his fubjects by the ambitious combinations of party, or the cabals of felfifh individuals.

To check as much as may be poffible the fpirit of party, appears to be one of the firft duties and nobleft employments of a King. To countenance it, is to encourage interefted nobles and afpiring commoners, factious orators, needy and profligate adventurers, to affociate in bands and confederacies for the purpofe of obtruding themfelves into all the offices of Govern-

Government; and, under the name and garb of ſervants, of impoſing on the Monarch and on the People chains too ſtrong to be broken. It is to proſcribe men from employments, not becauſe their characters are impeachable or ambiguous; not becauſe their talents are inadequate or unknown; but becauſe they were born in an obnoxious province; are deſcended from unpopular anceſtors; are ſuſpected of attending to meaſures rather than to men; to reaſon and to public good rather than to hackneyed watch-words and appellations; and heſitate to promiſe implicit allegiance to the chief, and obedience to every principle, of the political conſpiracy. Theſe are not the characteriſtics of a particular party, but of all party; and will be diſplayed in ſtronger or fainter colours according to the genius of the leaders and the circumſtances of the times. Their prevalence at any period not only endangers the final ſtability of the empire by dividing it into two conflicting portions; by perpetuating jealouſies, animoſities, and feuds; by threatening the annihilation of patriotiſm and public ſpirit; but more ſpeedily obſcures the dignity and deſtroys the power of the Monarch. Perhaps

haps he may hope to preſerve his authority by uniting himſelf with the ruling faction. But "Kings had need beware how they ſide them-"ſelves, and make themſelves as of a faction or "party. For leagues within the State are ever "pernicious to monarchies; for they raiſe an "obligation paramount to the obligation of "Sovereignty, and make the King *tanquam* "*unus ex nobis* (*c*)." A King, though he may be a member of a party, can never be the leader. That poſt will ever be filled by the bold declaimer whoſe influence commands the Houſes of Parliament. All that is permitted to the Sovereign, no longer a Sovereign but in name, is to co-operate in forging his own fetters, and to endeavour to perſuade himſelf that he is free; to be flattered by his potent aſſociates, when they are at leiſure and in the humour; to be menaced by them, when he dares to intimate diſapprobation of their ſchemes; to be overawed by the one part of his ſubjects, whom he denominates his friends; and deſpiſed by the other, whom he has forced to be his enemies.

(*c*) Lord Bacon's Eſſays, p. 184. Lond. 1685.

But

But when a Monarch conſiders himſelf as the common father of his people; when, rejecting all diſtinctions not originating in perſonal merit, he is ready to employ in the ſervice of the State any of his ſubjects poſſeſſed of virtues and talents capable of furthering its welfare; it is difficult to ſay whether he enſures, as far as human conduct can enſure, more ſubſtantial advantages to his country, or more ſatisfaction, honour, and authority to himſelf. Rouſed by his impartial call, public ſpirit revives in the remoteſt extremities of his dominions, prompting all claſſes of citizens to whatever exertions the general good may require. No individual is deterred from ſtanding forward in the common cauſe, by the fear that, in conſequence of inauſpicious party connections, his moſt ſtrenuous efforts will be coldly accepted, his moſt important ſervices forgotten. Political diſſenſions no longer make one part of a family an inveterate enemy to the other. Harmony and confidence reign throughout the community, and afford the moſt ſtable ſecurity againſt attacks from abroad. Each member of adminiſtration, ſufficiently according

ing with his co-adjutors in a few fundamental principles, no longer feels himſelf bound by ſuppoſed ties of honour, nor urged by the dread of excluſion from office, to acquieſce in meaſures with which his judgment or his conſcience is diſſatisfied. He is no longer tempted at the expence of truth to defend the unwarrantable proceedings of his colleagues; and to buttreſs up the tottering fabric of their power, leſt he ſhould himſelf be overwhelmed in its fall. The Sovereign in the mean time reaps the fruits of his wiſdom in a full participation of the public happineſs; and in the poſſeſſion of a degree of perſonal eaſe and independence, which no other line of conduct could have enabled him to attain. Strong in the conſciouſneſs of national eſteem, and ſurrounded by eminent men from every quarter of the realm ſolicitous to be employed in his ſervice, he is not at the mercy of a knot of confederated partiſans; he is not obliged to tolerate the unjuſtifiable or impolitic meaſures of miniſters whom he diſapproves, leſt they ſhould abandon him to others to whom he has a ſtill greater repugnance; he feels himſelf free to exert

exert his conſtitutional prerogatives for the benefit of all his ſubjects; he feels himſelf in deed and in truth a King.

This is not an ideal ſtate of things impoſſible to be realized in Great Britain. It is true that it has not yet been realized; and obſtacles ſcarcely poſſible to be removed were long oppoſed to all who might be inclined to make the attempt. Not to look to events prior to the memorable æra of the Revolution; the changes in Government which took place at that time, the two ſubſequent rebellions, together with various incidental circumſtances of more recent date, concurred to divide the nation into two diſtinct and hoſtile parties; a diviſion which the miſguided or ſelfiſh policy of individuals has laboured to defend and to perpetuate. But time has ſo far removed the ground of theſe party diſtinctions; and the ſecret operation of various principles, good and bad, has of late years made ſuch inroads into the ancient ſyſtem, has ſo intermingled the ſquadrons and interchanged the colours of the contending armies; that a Sovereign who ſhould now endeavour to reduce the ſpirit of

party to the narroweſt limits within which the genius of a free Conſtitution will permit it to be confined (and thoſe bounds the natural jealouſy entertained of Government, and the ſtimulus of diſappointed ambition, will always enable it to fill) might not find the object very difficult to be accompliſhed. He might experience for a time attempts to ſeduce or to intimidate him from his purpoſe: and a large ſhare of prudence (I mean honeſt prudence, honeſt not only as to the end propoſed, but equally ſo as to the mode of purſuing it), together with ſteady reſolution never loſing ſight of its aim, would be requiſite to overcome the laſt ſtruggles of intereſted combinations, and the remaining antipathies of prejudice. By a ſparing introduction of thoſe deſcriptions of good citizens leaſt favoured by the tide of prevailing opinion into the ſubordinate departments of office; by gradually elevating them, in a fair proportion to their numbers and their qualifications, to poſts of more importance; by giving time for paſſion to cool, for averſion to ſubſide; by ſtudying to obviate occaſions and to remove cauſes of offence; and above all things, by uniformly appealing to the ſober judgement and the love of

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his people ; and by evincing his whole conduct to be fuch as might be expected from the vigilant and impartial friend and protector of all his fubjects ; he could fcarcely fail to gain very important if not complete fuccefs.

The fame attention to the national fafety and the national morals, and the fame difregard of mere party diftinctions, which ought to characterize the conduct of the King with refpect to the nomination of his minifters, ought equally to guide the exercife of his conftitutional influence in filling up vacancies in the other departments of the State, whether civil, military, or ecclefiaftical ; and in the choice of thofe public officers whom he appoints to attend on his own perfon, or honours with efpecial marks of royal favour.

Towards perfons in the political world who diftinguifh themfelves by oppofition to the meafures of Government, it is the wifdom and the duty of a King to conduct himfelf with cordial franknefs ; and neither haftily to indulge, nor act fo as to be fufpected of haftily indulging, an opinion, that their diflike to the

plans and proceedings of his miniſters ariſes from ſiniſter motives, or is connected with perſonal averſion to himſelf. The advantage of this candid and conciliating behaviour will be felt at all times; and will be particularly conſpicuous, if the viciſſitude of events ſhould afterwards make it expedient to inveſt theſe very men with the offices of adminiſtration.

There is a natural propenſity in the human mind to imitate the conduct and adopt the ſentiments of thoſe who are inveſted with authority. The example of the Sovereign, like the impulſe of a ſtone on the yielding ſurface of a lake, diffuſes its influence around in concentric and gradually enlarging circles, to an extent which the eye can neither trace nor limit. The power which he poſſeſſes of checking or of accelerating the progreſs of luxury, diſſipation, and vice, of exciting or repreſſing genuine patriotiſm, of encouraging or diſcountenancing chriſtian virtue, is not confined to thoſe who are eye-witneſſes of his own manner of life. The rumour is communicated from the frequenter of the court to the inhabitant of the country; it ſpreads from town to town, from village

village to village, until it reaches and affects the moſt obſcure corners of the empire. The direction of the cenſorial juriſdiction of public opinion is in the hands of the Monarch. It is a juriſdiction before which the moſt audacious criminals ſtand abaſhed. It is the only juriſdiction by which in this country ſeveral enormous vices can be reſtrained. The greateſt bleſſings have commonly their attendant evils. The ſpirit of Liberty, which happily pervades the Britiſh Conſtitution, defeats in various inſtances the operation of poſitive ſtatutes, and renders their wiſeſt proviſions nearly or altogether unavailing. The proof requiſite for the conviction of the gambler, and of various other violators of the laws (*d*), is ſometimes impoſſible to be obtained, and is rarely to be obtained without the utmoſt difficulty; partly becauſe

(*d*) The influence of the Sovereign might be moſt beneficially diſplayed in checking, and probably might be ſucceſsful in exterminating, an irrational, ſavage, and unchriſtian practice, which laws have hitherto been unable to aboliſh; and which owes its exiſtence to the countenance given to it by a claſs of ſubjects, who from their profeſſion are particularly alive to royal approbation and cenſure. It is ſcarcely neceſſary to add that I allude to Duelling.

those decisive methods of detection to which recourse would at once be had in despotic Governments, would not here be endured; and partly because mistaken conceptions of honour, resulting from a general consciousness of freedom, have attached an unmerited degree of odium to the character of an informer, even if he should have been wholly actuated by the purest motives. But if once the lively example, the silent but marked dislike, the calm but pointed animadversions of the Monarch shall have branded a vicious practice as scandalous and contemptible in the royal estimation; it will speedily become disreputable in that of the public. Numbers, whom inadvertence or fashion had engaged in it, will abandon it; and those who are too hardened or too infatuated to be reclaimed, will shrink from notice, and strive to bury the infamy of guilt in scenes remote from general inspection, instead of corrupting society by shamelessly obtruding their vices, and braving the laws of God and their Country in open day. But to render the influence of the Sovereign in promoting religion and morality widely and permanently efficacious, it is indispensably requisite that it

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be exerted with prudence, with perſeverance, with impartiality. The world muſt be convinced that the practice has drawn down diſapprobation on the man, not the man on the practice. It is almoſt needleſs to add, that evils the moſt alarming will ſpread with rapidity to an indefinite extent, if the prevailing vices of the times be ſanctioned by the conduct or tolerated by the indifference of the King, and thus tacitly at leaſt recommended to univerſal imitation.

There are various methods in addition to thoſe already mentioned, by which the Sovereign has it in his power to contribute moſt effectually to the true welfare of his ſubjects. The ſucceſs of the moſt uſeful inſtitutions for the adminiſtration of relief to the poor and comfort to the afflicted; the eſtabliſhment of the moſt promiſing plans for the advancement of morals, for the improvement of the police, for the encouragement of induſtry, will frequently depend on the aid which they derive partly from his perſonal munificence, and ſtill more from the general favour and credit which his protection will enſure to them.

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The ſimple intimation of his ſentiments will often prove ſufficient to enſure thoſe reforms in corporations, in ſchools, in univerſities, and other public eſtabliſhments, neceſſary to remove the defects which the lapſe of time invariably diſcovers or produces; and which the ſincere friends of the reſpective inſtitutions may have long beheld with fruitleſs anxiety.

The diſtribution of titles, and of orders of merit, regulated by the dictates of reaſon and conſcience, will have a viſible effect on the conduct of the numerous candidates who aſpire to obtain them. And the nation at large will receive a deep and moſt deſirable impreſſion, when it ſhall ſee honours applied to their proper uſe, the reward of virtue and public deſert. Sentiments of an oppoſite nature, equally unfavourable to public virtue and to the perſonal eſtimation of the Sovereign, will be no leſs deeply impreſſed on all ranks of ſociety; if they ſhall behold him laviſhing marks of diſtinction on men who are devoid of private worth, and undiſtinguiſhed by patriotic exertions.

Though the beneficial effects of the wiſe and upright conduct of the King in the caſes which have been ſpecified will principally be felt by the people over whom he reigns; yet it may materially conduce to the happineſs of other nations, partly by ſetting before their eyes a pattern of what they are entitled to expect from their own Governors, and partly by exciting thoſe Governors to emulate ſo glorious an example. And as advances in ſcience, and diſcoveries in arts, are much more ſpeedily borrowed and more eaſily domeſticated than the improvement of laws and the reformation of manners; the efforts of a King of Great Britain in the encouragement of genius and learning are ſcarcely leſs intereſting, in ſome inſtances they may even be more intereſting, to foreigners than to his own ſubjects. It falls within his immediate province to patronize ſocieties inſtituted for the cultivation of natural and experimental philoſophy; to encourage inventions which may facilitate the progreſs or increaſe the excellence of manufactures; to countenance the profeſſors of manly and liberal arts; to animate every department of literature; to excite by perſonal favour, by inci-

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dental rewards, and perhaps by the inſtitution of honorary and pecuniary prizes, the exertions of all who have diſtinguiſhed or are capable of diſtinguiſhing themſelves by meritorious ſtudies and purſuits; and occaſionally to direct their labours into thoſe channels, in which they appear moſt likely to promote the public welfare. And it is peculiarly his office to avail himſelf of the opportunities which reſult from his ſupreme direction of the Britiſh Navy, to explore untraverſed oceans, to bring unknown regions to light; and, while he is laying the foundations of a commercial intercourſe which may enrich the diſtant poſterity of his ſubjects, to introduce among ſavage tribes the immediate bleſſings of civilization and chriſtianity.

It does not fall within the plan of the preſent work to recite at greater length, and purſue to a more minute detail, the effects which a King may produce on the manners and condition of the people committed to his care. To the hiſtorian belongs the cheering office of diſtinctly tracing the progreſs of thoſe ſtreams of happineſs which a Sovereign diſpenſes throughout

throughout his realms, who, regarding all his ſubjects as his children, watches over them with unwearied and impartial affection; who ſcrupulouſly obſerves their rights and liberties; obeys the laws, and cauſes others to obey them; rejects the baits of foreign as well as of domeſtic ambition; cheriſhes uſeful induſtry, learning, and ſcience; eradicates ancient prejudices; aboliſhes immoral cuſtoms; diſcountenances corruption, luxury, and vice; and by public encouragement and private example inculcates the important leſſon, that the welfare of a nation is to be ſought, like that of an individual, in the cultivation of chriſtian virtue. On the hiſtorian alſo reſts the painful taſk of delineating the miſeries of that kingdom, whoſe Monarch ſtudies to aggrandize himſelf by encroaching on popular freedom, by fomenting party diviſions, by holding up rewards to venal ſervility; who impoveriſhes his ſubjects by his profuſion; laviſhes their wealth and their blood in unneceſſary wars; connives at the injuſtice of his miniſters; ſanctions the licentiouſneſs of his court; and by the influence of perſonal irreligion ſaps the foundations of national morality.

The Monarch, who is truly anxious for the happineſs of his people, will not ſatisfy himſelf with perſonally exerciſing his conſtitutional authority with a view to that object. He will endeavour to give his ſubjects every poſſible degree of aſſurance that the advantages, which they have enjoyed under his adminiſtration, ſhall be continued to them when he ſhall no longer fill the throne. Impreſſed with this patriotic deſire, he will regard the education of his family, not merely with the common feelings of a father; but with the anxieties inſeparable from the recollection that it is a meaſure which may involve the welfare of millions. He knows with what commanding influence the conduct of perſons allied to royalty affects all ranks of ſociety. He knows not which, or how many, of his children may eventually wear the crown. He will engrave then on their boſoms the importance, the dangers, and the duties, of the ſtation in which they are born, and of the office to which they may ſucceed. He will train them in the ſtudies, habits, and occupations which may moſt incline and enable them to be extenſively uſeful. He will aſſociate them with ſuch friends

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and companions as recommend to imitation purity of character by refpectful freedom and attractive ingenuoufnefs of manners. He will guard them againft the fervility of flatterers, and the bufy artifices of the vicious. Above all things, he will imprint on their hearts the proofs and the precepts of chriftianity; and fix their thoughts and their folicitude on that impending day of enquiry and retribution, when all earthly diftinctions fhall be no more.

A King who in the difcharge of his various functions fhall thus labour to promote the happinefs of man and the glory of God, will enfure to himfelf, not only a brighter crown hereafter, but an extent of prefent power greater perhaps than a defpot ever knew, greater than a defpot ever enjoyed in fecurity. And it is a power which he need not blufh to poffefs; it is a lawful power; it fprings not from tyrannical edicts; not from the fubmiffion of bribed or intimidated fenates; but from the eager approbation and unbounded love of his people.

CHAP. IV.

ON THE GENERAL DUTIES OF ENGLISHMEN AS SUBJECTS AND FELLOW-CITIZENS.

THE firſt duty of a ſubject as ſuch is to fulfil the engagements into which he has entered with his country. The engagements, by which a ſubject of this kingdom is bound, are aſcertained by the laws of the land, and by thoſe eſtabliſhed uſages, which, although they are not expreſsly recorded in any Act of Parliament, are recognized as fair inferences from exiſting Statutes, or have at leaſt received from general conſent the authority of poſitive Laws. Theſe ſtatutes and uſages define the meaſure of obedience due from him to the State; they declare the ſeveral inſtances and degrees (*a*) in

(*a*) "Political or civil liberty, which is that of a member of ſociety, is no other than natural liberty ſo far reſtrained, and no further, as is neceſſary and expedient for the general advantage of the public."——"Every man, when he enters into ſociety, gives up a part of his natural liberty." Blackſt. Com. vol. i. p. 125.

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which his natural rights are reſtrained; and deſcribe the civil rights aſſigned to him in return.

A detail of this immenſe and fluctuating maſs of particulars, however juſtly it might be required in a work profeſſedly deſigned to convey legal knowledge, is not to be expected in a treatiſe which has moral inſtruction for its object, and addreſſes itſelf to readers of various deſcriptions. Yet there are ſome points too important to be diſmiſſed without ſpecial obſervation. I ſhall therefore in the firſt place endeavour to ſtate with preciſion the general obligation which the ſubject owes to his governors; and ſhall afterwards make ſome remarks on thoſe more indeterminate duties, in which greater latitude is afforded for the exerciſe of his own diſcretion.

I. The obedience of the ſubject is immediately due to the exiſting Government in conſequence of its poſſeſſing the delegated authority of the State. It is not however an obedience without limit: it is not due in any caſe in which it would be a breach of duty to God;

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and in addition to that reftriction, it is not due in any inftance or degree in which the Governors do not poffefs authority from the State to require it. The propriety of thefe exceptions is fufficiently apparent. No one would undertake to vindicate by an appeal to human jurifdiction what would be rebellion againft the Sovereign of the Univerfe; nor would any one conceive himfelf bound to fupport his lawful rulers in acts of ufurpation. The only concern then of the fubject in thefe refpects is to be careful that his practice correfpond with his principles. If he were to be required to do what he is ferioufly convinced would be finful; to forfake, for example, the religious worfhip which he deems moft acceptable to his Maker; to concur in unwarrantable acts againft a fellow-citizen; or to ferve againft a foreign State in a war which in his confcience he firmly believed to be unjuft, he ought to remember that neither the command of his fuperiors, nor even the unanimous voice of his countrymen, would juftify his obedience. Such is the enlightened fpirit of modern times, and fo equitable are the general maxims of the Britifh Conftitution, that to intimate to an

Engliſhman of the preſent age what would be the line of his duty in theſe caſes, may rather be deemed the boding of ignorant ſuſpicion than the voice of ſalutary caution. What though in former ages Henry the Eighth required unwearied pliability in the conſciences of his ſubjects? What though Charles the Firſt commanded his collectors of revenue to exact illegal impoſitions from their fellow-citizens? What though his ſucceſſor ſummoned thoſe who ſerved in his fleets and armies to carry on unjuſtifiable hoſtilities againſt the Dutch? It is almoſt as improbable, it may be ſaid, that the perſecution and injuſtice of thoſe days ſhould revive, as it is impoſſible for the days themſelves to return. The eſtabliſhment of the principles of the Reformation and of the Revolution undoubtedly promiſes a great degree of ſecurity againſt ſimilar dangers. But it is not poſſible to affirm, that, in the fluctuation of human events and human intereſts, ſomething ſimilar to what has happened heretofore can never take place again. The evil may not recur in its ancient form, nor diffuſe itſelf to its ancient extent. Yet, however varied in appearance, it may be eſſentially the ſame.

ſame. And on whatever principle it was the duty of a ſubject in former times to withſtand at all hazards the commands of his governors, when they enjoined flagrant acts of impiety and injuſtice; on the very ſame principle would it be at all times the duty of an Engliſhman ſteadily to decline obeying any orders of his ſuperiors, which his conſcience ſhould tell him were in any degree impious or unjuſt.

Under the limitations which have been ſtated, it is the duty of every Britiſh ſubject to obey with punctuality, promptitude, and cheerfulneſs, the laws of the land which are actually in force; that is, which are neither become obſolete by diſuſe, nor are underſtood to have been deprived by any other circumſtance of their authority, though ſtill continued in the Statute Book; and all public uſages admitted to have the obligatory power of laws. Reaſon inculcates this duty upon him as the reſult of his own poſitive engagement; and her dictates are expreſsly ſupported and ſtrengthened by Chriſtianity.

The Chriſtian Scriptures do not enjoin their followers

followers to adopt any particular form of Government in preference to another; they do not profeſſedly define what circumſtances are neceſſary to conſtitute any one a lawful Governor; nor to what extent a lawful Governor has a right to require the obedience of his ſubjects. Theſe were points altogether foreign to the views and objects of the ſacred writers; who leave them to be decided, the firſt by the voluntary choice of different nations, the ſecond by the rules of natural juſtice, the laſt by general principles of morality and the laws of each particular State. But in every country, as ſoon as thoſe fundamental points are adjuſted, Chriſtianity interpoſes her ſanctions; and pronounces it to be the duty of every man to obey the lawful commands, and to reſpect the perſons, and pray for the welfare, of the magiſtrates of the community to which he belongs. "Submit yourſelves for the Lord's "ſake," ſaith St. Peter, "to every ordinance "of man," (to every perſon whom men have inveſted with any degree of lawful authority over you) "whether it be to the King as ſu-"preme, or unto Governors," (all ſubordinate magiſtrates) "as unto them that are ſent by

"him for the puniſhment of evil doers, and the "praiſe of them that do well." 1 Peter, c. ii. v. 13. Thoſe who are thus *ordained by men* to execute the functions of Governors are to be obeyed "for conſcience ſake;" and therefore are ſaid by St. Paul to be *ordained of God.* "There is no power but of God;" every form of lawful government and magiſtracy is ſanctioned by the Almighty: "the "powers that be, are ordained of God;" even the idolatrous and perſecuting Roman power had authority from God to exact obedience from thoſe to whom the Apoſtle wrote, becauſe their ſeveral countries had faithfully and repeatedly engaged (*b*) to render it; whence St. Paul infers, that "whoever reſiſteth the "power," whoever withholds juſt obedience from his lawful rulers, "reſiſteth the ordinance "of God; and they that reſiſt ſhall receive to "themſelves condemnation." After various pertinent inſtructions he concludes with this

(*b*) Chriſt had in like manner pronounced the Jews bound to ſubmit to the Roman Emperor, becauſe they acknowledged him for their Sovereign by the unequivocal teſtimony of giving currency to his coin as to that of their lawful Ruler, as well as by various other proofs.

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general admonition: "Render therefore to "all" (to each magiſtrate in his proper department) "their dues; tribute, to whom tribute "is due; cuſtom, to whom cuſtom; fear, to "whom fear; honour, to whom honour." (Rom. xiii. 1—7.) In another part of the Scriptures the ſame Apoſtle directs private individuals earneſtly to pray for their magiſtrates, from the higheſt to the loweſt, and to return thanks to Heaven for their welfare. "I ex-"hort therefore, that firſt of all ſupplications, "prayers, interceſſions, and giving of thanks, "be made for all men; for Kings, and for all "that are in authority, that we may lead a "quiet and peaceable life in all godlineſs and "honeſty; for this is good and acceptable in "the ſight of God our Saviour." 1 Timothy, c. ii. v. 1—3.

Of the obligations impoſed by the laws and uſages of the land, one of the moſt important is that of allegiance to the Sovereign. This obligation reſts equally on all Britiſh ſubjects, though the greater part of them have not expreſsly taken it upon themſelves by oath. But all have taken it upon themſelves by having

voluntarily continued, when arrived at years of discretion, to be inhabitants and citizens of Great Britain; for the laws of the land, which they have thus engaged to obey, clearly suppose and require that all who enjoy the protection of Government should repay it by allegiance. Formerly it was held, and many of our legal (*c*) writers appear to have been perfectly satisfied with the idea, that every person born within the jurisdiction of the King of Great Britain was bound, in consequence of that circumstance alone, to render him allegiance during life, as his absolute and indubitable right. This opinion was derived from the times of feudal barbarism, when the liege Lord considered his vassals in the same light as a farmer looks upon his cattle: as proprietor of the parent, he asserted that he had an indefeasible title to the offspring; as supreme owner of the soil, he claimed all who chanced to be born upon it, as *his own (d) men.* The minds of men

(*c*) See Blackstone, vol. i. p. 368, &c.

(*d*) "Besides an oath of fealty or profession of faith to "the Lord, which was the parent of our oath of allegiance, "the vassal or tenant upon investiture did usually homage "to

men are at prefent fo far emancipated from the prejudices of ignorance, that few perfons would now think of maintaining the claim of a Prince to allegiance from thofe born within his territories, on the ground which has been ftated. The claim of natural, perpetual, and indefeafible allegiance is however ftill fupported by authors of high repute; though they have chofen a new and more fpecious foundation to fuftain the fuperftructure of their arguments. Sir William Blackftone, fpeaking of natural allegiance, fays that "it is perpetual; (*e*) that it "is due from all men born within the King's "dominions immediately upon their birth. For "immediately upon their birth they are under "the King's protection, at a time too when "(during their infancy) they are incapable of

"to his Lord; openly and humbly kneeling, being ungirt, "uncovered, and holding up his hands both together between thofe of the Lord who fat before him; and there "profeffing that he did become *his man*, from that day "forth, of life, and limb, and earthly honour; and then "he received a kifs from his Lord. Which ceremony was "denominated *homagium*, or manhood, by the feudifts, "from the ftated form of words, Devenio *vefter homo*." Blackftone, vol. ii. p. 53.

(*e*) Blackftone, vol. i. p. 369.

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"protecting themſelves. Natural allegiance "is therefore a debt of gratitude which cannot "be forfeited, cancelled or altered by any "change of time, place or circumſtance, nor "by any thing but the united concurrence of "the Legiſlature. It is a principle of univer-"ſal law, that the natural-born ſubject of one "Prince cannot by any act of his own, no not "by ſwearing allegiance to another, put off or "diſcharge his natural allegiance to the former. "For this natural allegiance was intrinſic and "primitive and antecedent to the other, and "cannot be diveſted without the concurrent "act of that Prince to whom it was firſt due." The principle here recited may have been a principle of univerſal law in the feudal ſyſtem; but it is not *(f)* a principle of univerſal juſ-tice.

(f) If I ſhould be thought to treat this "principle of uni-"verſal law" with but little ceremony, I would beg leave to obſerve, that the learned Judge himſelf from whom I have tranſcribed it can ſee it deliberately violated and con-tradicted on more than one occaſion without expreſſing the ſmalleſt diſapprobation, and without appearing even to ſuſpect that there was any thing wrong in the proceeding. He ſays, p. 372, 373, that in conſequence of this general principle

tice. To affirm that the mere circumſtance of an infant's being born within the territories of any Monarch does of itſelf give that Monarch a right to govern the infant when grown up, would be confeſſed to be the height of abſurdity. And there is no more reaſon for maintaining ſuch a right to have accrued to him from the further circumſtance of the child's being nurtured and protected within his realm from birth to manhood. The debt thereby incurred

principle of law, that "every man owes natural allegiance "where he is born, a particular Act of Parliament became "neceſſary after the Reſtoration for the *naturalization* of "children of his Majeſty's Engliſh ſubjects born in foreign "countries during the troubles." And, "by ſeveral modern ſtatutes, all children born out of the King's ligeance, "whoſe fathers (or grandfathers by the father's ſide) were "natural-born ſubjects, are now deemed to be *natural-born* "*ſubjects themſelves to all intents and purpoſes*, unleſs their ſaid "anceſtors were attainted, &c." and being thus admitted to a full participation of the common rights of Engliſhmen, are conſequently deemed to be bound to their common duties. Surely then this deſervedly celebrated reaſoner, who in a preceding page held ſuch high language reſpecting the obligation of natural allegiance, affirming it to be "perpetual, and incapable of being forfeited, cancelled, or altered by any change of time, place, or circumſtance, or "by

curred is, as Sir William Blackſtone rightly terms it, a debt of *gratitude*. But the concluſion which he wiſhed to eſtabliſh, required him to have proved it a debt of juſtice. The payment of the latter, if refuſed, may be exacted by force: the diſcharge of the former *(g)* cannot be demanded compulſorily; it muſt flow from ſpontaneous ſentiments of thankfulneſs on the part of him who has received the benefit. Were I to find on the public road a traveller thrown from his horſe, with broken limbs, in a

"by any thing but the concurrence of that Prince to "whom it was firſt due," ought to have ſtigmatized theſe Acts of Parliament in the ſtrongeſt terms of reprobation, as direct and premeditated breaches of juſtice; as immediately flying in the face of his favourite axiom of univerſal law; and as aiming to deprive the foreign Princes, in whoſe kingdoms theſe children of Engliſh parents chanced firſt to ſee the light, of their natural-born ſubjects. As no record of the conſent of thoſe Princes to the acts in queſtion has yet been produced, ought he not to have pronounced them void from the beginning; and to have charged the Britiſh Nation to reſtore to each of thoſe potentates "their own men" of whom we are defrauding them?

(g) "By our *exactions* of gratitude, and our frequent "propoſals to *enforce* its obſervance, we only ſhew that we "have miſtaken its nature." Ferguſon's Hiſtory of Civil Society, 5th edit. p. 146.

ſtate

ſtate of inſenſibility, and on the point of expiring: were I to convey him to quiet lodgings, to provide the beſt medical attendance, and with a great degree of perſonal trouble and perſonal expence to effect his cure: I might conceive him to have incurred a debt of gratitude; but I ſhould have no right to exact an indemnification. I do not ſay that, if he were able to return to me what had been expended on his account, he would be innocent in the ſight of God, ſhould he refuſe to make me amends, were I to think it reaſonable to deſire it. Neither do I affirm that a perſon born and educated in Great Britain would be guiltleſs in the eye of his Maker, if when arrived at years of diſcretion he ſhould quit the country on ſlender grounds, and decline to enrol himſelf among the ſubjects of the State. But he would at that period become inveſted with a right to freedom of action in this reſpect; and would be entitled on the principles of natural juſtice to decide according to his own judgment, and to chooſe in what part of the globe he would fix himſelf, and to what power he would pay allegiance in return for protection. The former is the price of the latter; and every man has a

right,

right, until he enters into an agreement to the contrary, to purchaſe whatever he wants at that market, which offers it to him on the terms which he deems it the moſt eligible to accept.

The only juſt foundation on which the claim of allegiance can be reſted is the voluntary act of the ſubject, whereby he takes the obligation upon himſelf. And ſince all Britiſh ſubjects have ſpontaneouſly incurred this obligation; ſome in the moſt ſolemn manner by taking the oath, and the reſt no leſs effectually by accepting the protection and the civil rights which are granted by the laws on the condition of allegiance; I ſhall conſider all as bound to the performance of the duties impoſed (*h*) by the oath, and ſhall proceed to enquire into the nature and extent of their obligation.

The terms of the oath are theſe,

(*h*) The oath of allegiance may be tendered to all perſons above the age of twelve years, whether natives, denizens, or aliens, either in the Court-leet of the manor, or in the Sheriff's Court. Blackſtone, vol. i. p. 368.

"I

"I A. B. do ſincerely promiſe and ſwear, "that I will be faithful and bear true allegiance "to his Majeſty King George. So help me "God."

The import of the oath is to be collected from the known will of the impoſer. It is the ſenſe in which the impoſer of an oath is conceived by him who takes it to deſign it to be underſtood, that regulates the obligations impoſed by it.

Who then is the impoſer of the oath of allegiance on the preſent race of Engliſhmen? Not ſurely the Convention Parliament at the Revolution, as an eminent (*i*) moraliſt aſſerts. Its authority lies buried in the graves of the members who compoſed it: nay, it expired before them on the diſſolution of that Parliament. The preſent Legiſlature of the land, which confeſſedly has a right to abrogate the oath altogether, or to modify it in any manner which it may think proper, by for-

(*i*) Archdeacon Paley, in his Elements of Moral and Political Philoſophy, vol. i. p. 206, 6th edit.

bearing

bearing to exercife this power continues and fanctions it; and is the impofer of the oath on its cotemporaries. We are no farther concerned to enquire into the meaning which the Convention Parliament annexed to the oath, than as fuch an enquiry might contribute to throw light on the fenfe affixed to it by the Parliament now exifting, if doubts fhould arife on that fubject. And in that cafe, if we fhould fee reafon to conclude that a new fenfe is attached to any of the terms of the oath by the prefent impofers (for there are few words and phrafes in any language which may not be underftood in a more or lefs qualified fignification); whether it be a fenfe more ftrict or more lax than the original import, it is that which we are bound to embrace. To contend that we are tied to the former meaning, becaufe it was that in which our anceftors in the preceding century, who introduced the oath, required it to be taken by thofe who were then alive, would be as unreafonable as it would be to maintain, that when we ftyle our prefent Sovereign defender of the faith, we mean defender of the Popifh faith, becaufe that was the meaning of the title when firft conferred by

the

the See of Rome on an Englifh Monarch. There feems no ground however to apprehend that in the prefent inftance any change of fignification in the terms of the oath has taken place. Moft Englifhmen, were a diverfity of fentiment to arife concerning their real force, would admit that explanation of them to be juft, which fhould be proved congenial to the principles of the Convention Parliament.

It has probably been the general veneration fhewn by Englifhmen to the proceedings of that Parliament, which has chiefly contributed to preferve unaltered the opinion of the import of the oath. The words of the oath are not in themfelves the moft likely to retain during a long courfe of years precifely the fame acceptation. The term *allegiance* is in itfelf extremely vague and indeterminate: and indeed the purpofe of the oath is rather to indicate the perfon entitled to the throne, than to define (*k*) the duties which

(*k*) "The prefent form is more general and determinate "than the former, the fubject only promifing that he will "be faithful and bear true allegiance to the King; with-"out mentioning his heirs, or fpecifying in the leaft where-"in that allegiance confifts." Blackftone, vol. i. p. 368.

which are owing to him. On the former point it ſpeaks in preciſe and unequivocal language; on the latter it appears to expreſs itſelf with ſtudied obſcurity; and leaves the ſubject to interpret an ambiguous phraſe by recurring to the laws of the land, and thence collecting the extent of his obligation.

The oath of abjuration, which is likewiſe impoſed by the exiſting Legiſlature on all perſons in any civil office, truſt, or employment, and may be tendered by two Juſtices of the Peace to any perſon ſuſpected of diſaffection, is uſually (*l*) underſtood to furniſh an ample

(*l*) "The oath of abjuration introduced in the reign of "King William very amply ſupplies the looſe and general "texture of the oath of allegiance; it recognizing the "right of his Majeſty derived under the Act of Settle- "ment; engaging to ſupport him to the utmoſt of the "juror's power; promiſing to diſcloſe all traitorous con- "ſpiracies againſt him; and expreſsly renouncing any "claim of the deſcendants of the late Pretender." Blackſtone, vol. i. p. 368.

I have not thought it requiſite to notice the oath of ſupremacy, as it relates only to a denial of certain pretended rights arrogated by the See of Rome; againſt which even the

ample comment on the oath of allegiance. It contains a full recognition of the right of his Majeſty to the Throne, under the Act of Settlement; a promiſe of bearing faith and true allegiance to him, and of defending him againſt all treaſons, and of diſcloſing them; and a renunciation of all claims of the deſcendants of the late Pretender. Theſe engagements and declarations are couched in very ſtrong and explicit language. Yet perhaps they impoſe few, if any, obligations which were not already incurred by the oath of allegiance. For the promiſe of "being faithful and bearing true "allegiance to King George," neceſſarily implies that he, and he alone, has a legal right to the Crown; and can ſcarcely be underſtood to mean leſs than that the juror will defend him in the poſſeſſion of his legal right againſt unlawful attacks.

But though the oath of allegiance binds the

the Catholic ſubjects of Great Britain have delivered their general and unequivocal teſtimony. On this point none of my readers, I apprehend, can be at a loſs to diſcern their duty, or unwilling to proceed to the full extent of it.

ſubject to ſupport his Sovereign in the exerciſe of all the rights with which the exiſting laws inveſt him, it requires nothing further. It binds no man to ſupport his Monarch in acts of injuſtice; it binds no man to render the leaſt degree of obedience to the royal command, if it ſhould enjoin the breach of the moſt inconſiderable law; or the infringement of a ſingle right of the humbleſt peaſant. In Great Britain the law is paramount and ſupreme; it rules every inhabitant of the realm from the throne to the cottage; it will not permit even its higheſt executive officer to put forth for its deſtruction thoſe powers, which it has placed in his hands that they might be employed in enforcing its decrees; and if ever they ſhould be put forth for that purpoſe, it prohibits every perſon under its juriſdiction from co-operating in the attempt.

The wiſdom of the Conſtitution has fortified our liberty with ſuch ample bulwarks, and the Family on the Throne has been ſo far from manifeſting a diſpoſition to ſubvert them; that we look forward to their permanency, under the Divine bleſſing, with a confidence

little ſhort of perfect ſecurity. The nature however of the preſent work requires the ſtatement of two fundamental rights, which the people of Great Britain have retained notwithſtanding their engagements to their governors, for the defence of national freedom, and the augmentation of national happineſs.

The firſt is the right of reſuming the delegated authority of the State from the hands of governors, who deliberately and flagrantly violate the conditions on which it was committed to them.

The precedent of the Revolution in 1688 is ſtill ſo freſh in the minds of Engliſhmen, that a ſimple reference to that happy event will ſufficiently prove the truth of this poſition. But let it be remembered with reſpect to the right in queſtion, if any criſis now unforeſeen and unexpected ſhould oblige poſterity to have recourſe to it; that in ſuch a conjuncture the breach of contract on the part of the Sovereign would not juſtify a ſubject in co-operating forcibly to expel him from the throne, unleſs on mature reflection he ſhould believe in his

conſcience that the nation was deſirous that the forfeiture ſhould be exacted. If perſonal attachment to the Monarch, the hope of his conducting himſelf conſtitutionally for the future, or the dread of inteſtine broils and civil war, ſhould determine the nation to overlook the criminal proceedings; that determination once manifeſted (whether expreſsly declared, or impliedly conveyed by circumſtances) would reſtore to the poſſeſſor of the throne the title to it which he had loſt, and render every individual guilty of direct injuſtice who ſhould queſtion it on the ground of thoſe acts of uſurpation, which the public will had buried in pardon and oblivion. And further, if the wiſh of the nation to reſume the royal power from the Monarch who had betrayed his truſt ſhould unequivocally appear; yet no private ſubject would be innocent before God in taking up arms for that purpoſe, unleſs he were ſeriouſly perſuaded that the attempt was deſirable, and had a reaſonable proſpect of ſucceſs. For though he might commit no breach of juſtice by engaging in a hopeleſs war againſt a manifeſt and declared tyrant; he would ſhew a very ſinful diſregard of the welfare of his

countrymen,

countrymen, an object which he ought to promote with zealous and unvarying ſolicitude, were he to irritate their oppreſſor to additional outrages, and to diſcourage future reſiſtance, by a haſty and improvident appeal to the ſword.

The unauthoriſed acts of power have hitherto been ſuppoſed to take place on the part of the Sovereign. But if either Houſe of Parliament were reſolutely to overleap the conſtitutional limits of its functions, and to perſiſt in its uſurpations in defiance of the other branches of the Legiſlature and of the Nation; the principles which gave birth to the Revolution would in that caſe equally vindicate reſiſtance on the part of thoſe branches and of the people. And the private ſubject ought to be governed, as to the exerciſe of the right, by the conſiderations recently ſtated.

The Britiſh nation has likewiſe retained to itſelf the right of making any alterations in the Conſtitution, if extreme emergences ſhould ever occur, which it ſhall be firmly convinced that the public welfare and ſafety require; al-

though the Conſtitutional Legiſlature ſhould refuſe its conſent.

It has been aſſerted by writers, whoſe earneſtneſs to avoid one extreme has carried them to another, that the Nation has no ſuch right; that the Conſtitution was ſettled at the Revolution for ever; and that all rights ſimilar to that under conſideration, if Engliſhmen poſſeſſed them before, were at that period ſolemnly renounced and abdicated by our anceſtors, not only for themſelves, but for all their poſterity to the end of time. This opinion is built upon certain expreſſions to be found in the Acts of Parliament paſſed in the reign of William and Mary reſpecting the ſucceſſion to the crown, and already noticed in a former chapter. To ſuppoſe however that our anceſtors were competent to abdicate the rights of their poſterity, in this or in any reſpect, "to the end of time," is to ſuppoſe that they were competent to interfere between their deſcendants and the Omnipotent; and to preclude them from receiving at his hand the common rights of the human ſpecies. It is to ſuppoſe that one generation may be compe-

tent

tent to bequeath its remoteſt poſterity as vaſſals to the Great Mogul, or as ſlaves to the Emperor of Morocco. For if that generation has power to abdicate one right for its deſcendants, it has power to abdicate all; if it has power to conſign them for ever to one potentate, it has power to conſign them to any.

The main concern of every Engliſhman is not with the conduct of his anceſtors, but with his own; not to diſcover whether his forefathers, in framing the Acts of Parliament alluded to, meant to arrogate to themſelves a power, which it was impoſſible for them to poſſeſs, of renouncing for their poſterity the right in queſtion; but whether their poſterity now exiſting have expreſsly or virtually renounced it for themſelves.

Now it ſeems altogether improbable that any nation, in delegating the exerciſe of authority to governors under certain conditions, ſhould deſign to contract, that provided thoſe conditions ſhould be obſerved on their part, no circumſtance, no criſis whatever, no con-

ceivable viciſſitude or emergency of human affairs, ſhould induce it to interfere, and alter the Conſtitution without their conſent. Nothing but evidence too authentic to be denied, too preciſe to be miſunderſtood, nothing ſhort of moral demonſtration, would be ſufficient to prove, that if a fundamental change in the ſyſtem were requiſite in the opinion of the nation for the public ſafety and happineſs, the Legiſlature would have a right, according to the terms on which it holds its authority, for ever to interpoſe its veto; and to obſtruct the general ſecurity and welfare, the avowed objects of all Civil Government, on the plea of the inviolability of its particular privileges.

In the preſent caſe, the demonſtrative evidence appears on the other ſide of the queſtion.

In proof of this aſſertion may be produced the direct teſtimony of a writer, generally eſteemed one of the ableſt expoſitors of the rights of Engliſhmen, and univerſally allowed to be free from an undue bias to the ſide of democratic control. Sir William Blackſtone pronounces

pronounces (*m*), that "whenever a queſtion "ariſes between the ſociety at large, and any "magiſtrate veſted with powers originally delegated by that ſociety, *it muſt be decided by the voice of the ſociety itſelf*: there is not "upon earth any other tribunal to reſort to." In another part of his Commentaries (*n*), ſpeaking of the prerogative claimed by James the Firſt, he ſays: "The people heard with "aſtoniſhment doctrines preached from the "throne and the pulpit ſubverſive of liberty "and property, and all the natural rights of "humanity. They examined into the divinity of this claim, and found it weakly and "fallaciouſly ſupported. And *common reaſon aſſured them that, if it were of human origin, no Conſtitution could eſtabliſh it without power of revocation*." And in another place, having firſt obſerved that in caſes of unconſtitutional oppreſſion on the part of the Sovereign Power (*o*) "mankind will not be reaſoned out of the feelings of humanity; nor "will ſacrifice their liberty by a ſcrupulous

(*m*) Blackſtone, vol. i. p. 212. (*n*) Ibid. vol. iv. p. 436.
(*o*) Ibid. vol. i. p. 245.

"adherence to thoſe political maxims which "were originally eſtabliſhed to preſerve it;" he afterwards proceeds in the following deciſive terms: "In theſe, *or other circumſtances* "*which a fertile imagination may furniſh*, ſince "both law and hiſtory are ſilent, it becomes "us to be ſilent too; leaving to future gene-"rations, whenever neceſſity and the ſafety "of the whole ſhall require it, *the exertion of* "*thoſe inherent, though latent powers of ſociety*, "*which no climate, no time, no conſtitution, no* "*contract* (*p*), *can ever deſtroy or diminiſh.*"

Few

(*p*) This expreſſion of the learned Judge is not altogether accurate. An individual has it in his power to ſurrender for himſelf the right in queſtion, like any other of his actual rights, by contract; and conſequently all the individuals compoſing a nation are equally competent to ſurrender it for themſelves. However, it is undeniably Sir William Blackſtone's opinion, that the Engliſh Nation has entered into no ſuch contract with its deputed Governors; and that caſes of the ſort now under diſcuſſion are not included in the ſocial compact (the exiſtence of which he repeatedly maintains), but are left open to be decided, if ever they ſhould occur, by the will of the community.

Thoſe who deny the exiſtence of a ſocial compact arrive by another road at the ſame concluſion. "No uſage, "law or authority whatever is ſo binding, that it need or "ought

Few national proceedings, however, could at any period be more criminal than a needleſs and improvident exerciſe of the right in queſtion. On the preſiding energy of Government depend all the advantages which poliſhed and

" ought to be continued, when it may be changed with " advantage to the community. The family of the Prince, " the order of Succeſſion, the prerogative of the Crown, " the form and parts of the Legiſlature, together with the " reſpective powers, office, duration, and mutual dependen- " cy of the ſeveral parts, are all only ſo many laws, mutable " like other laws whenever expediency requires; either " by the ordinary Act of the Legiſlature; *or, if the occa- " ſion deſerve it, by the interpoſition of the people.*" Paley's Moral and Political Philoſophy, 6th edition, vol. ii. p. 146.

The Revolution of 1688 was an inſtance in which the right under conſideration was exerciſed. The proceedings of the Convention Parliament can be vindicated only on theſe two principles: that the Nation had a right to make ſuch changes in its Conſtitution as it deemed eſſential to the public good; even though they ſhould directly affect the then conſtitutional rights of thoſe of the Royal Family who had broken no compact, but on the contrary were univerſally acknowledged as the friends and defenders of the people: and that the Nation had authoriſed the Parliament to exerciſe that right on its behalf to a very ample extent. In conformity to theſe principles, after the expulſion of James, who had been guilty of the breach of contract; after the excluſion of the Prince of Wales, who had

and enlightened ſociety poſſeſſes over the inſecure and rude life of ſavage tribes. And all Government owes a large ſhare, perhaps the largeſt ſhare, of its energy to the opinion which is entertained of its ſtability. Hence frequent and ſtriking changes in a Conſtitution, whatever benefits they may promiſe or intro-

had broken no contract; whoſe birth however was then thought by ſome not ſufficiently authenticated; they in the firſt place annexed an entirely new condition to the inheritance of the Crown, namely, that of Proteſtantiſm; and in the next place, inſtead of permitting it to devolve on Mary, who was ſo dear to public gratitude, who was a Proteſtant, who according to the antient Conſtitution had an excluſive right to the throne, her brother being ſet aſide; they elected her huſband William, who had not the ſlighteſt previous title, to be King. They placed indeed a ſceptre in the hand of Mary; but it was a barren ſceptre. They made her, as Sir William Blackſtone obſerves (vol. i. p. 216), "only *nominally* Queen." They decreed that, "the *ſole* and *full* exerciſe of the regal power ſhould "be *only* in, and executed by, the Prince of Orange." They decreed, that in caſe of Mary's death the Crown ſhould not devolve to her ſiſter the Princeſs Anne, but remain abſolutely and excluſively to William. "Perhaps," ſays Sir William Blackſtone (vol. i. p. 215), "upon the "principles before eſtabliſhed, the Convention might, if "they pleaſed, have veſted the regal dignity in a family "entirely new, and ſtrangers to the royal blood."

duce,

duce, will certainly contribute in one moſt important point to endanger the public happineſs. It is alſo to be remembered, that no great change in a Government is ever adopted with unanimity: that thoſe who are attached to the antient form are ſoured and rendered diſſatiſfied by the alteration: that there is always a hazard of civil convulſions, always a riſk of final diſappointment, attending the new experiment: and that an ample allowance is in prudence to be made for unforeſeen dangers and unexpected conſequences. Theſe remarks apply in ſome degree to all fundamental changes in forms of Government, even when wrought by the regular means provided by the laws of the country. But they apply with double force to Revolutions effected by a nation itſelf ſuperſeding the functions of its exiſting Magiſtrates by an exerciſe of its dormant rights. No nation therefore which is poſſeſſed of any tolerable Conſtitution ought to exert its right of changing it by its own actual interpoſition; unleſs there ſhould be the moſt convincing reaſons to believe that the Revolution will be attended with an acceſſion of general good very far exceeding any temporary

or permanent evils which may be likely to enſue. For otherwiſe, all who ſhould endeavour to accompliſh it, though not chargeable with injuſtice towards the antient Governors, would be moſt criminal in the ſight of God; they would prove themſelves inconſtant and raſh where inconſtancy and raſhneſs would be leaſt excuſable; riſking not only their own happineſs, but that of multitudes of their cotemporaries, eventually perhaps that of remote generations of their poſterity.

If then it be true of Nations in general, that it is their duty to act with the greateſt caution as to the introduction of radical changes into their reſpective forms of government; and more eſpecially never to reſort to their latent right of introducing them againſt the conſent of the exiſting Legiſlatures, except in thoſe great emergences when the public ſafety and happineſs moſt obviouſly depend on the national interference; it is an obſervation which may with peculiar force be applied to Great Britain. For we are not only in poſſeſſion of a Conſtitution under which all ranks of ſubjects have long enjoyed the bleſſings of liberty and

and ſecurity, of public and private happineſs, to an extent rarely if ever experienced in any other country; but of a Conſtitution which has provided the means of making eſſential alterations even in the form of government itſelf, if ever the Nation ſhould be ſeriouſly and permanently convinced of their being neceſſary.

II. We are now to conſider thoſe general duties of Engliſhmen, which, though they reſult from the ties by which ſubjects of the ſame empire are bound to their lawful Governors and to each other, are either altogether or to a conſiderable degree incapable of being aſcertained by poſitive ſtatutes. From this peculiarity in their nature, the extent in which they are reſpectively incumbent on each individual, and the manner in which they may beſt be performed by him, are points left to be determined by his own private judgement.

Thoſe duties may be comprehended under the ſingle term, Patriotiſm; by which term is meant a peculiar affection for our Countrymen, attended

tended with an active zeal to promote their welfare.

That patriotiſm is a moral duty, is generally confeſſed by perſons of every party and of every creed. Even thoſe who are remarkable for unfeeling ſelfiſhneſs in their private intercourſe with their fellow-citizens individually, are uſually loud in their profeſſions of unbounded attachment to the community. In every ſeminary of education patriotiſm is ſet before the youthful ſcholar as the ruling principle of the nations in whoſe hiſtory he is initiated; as the parent of every heroic action, of every generous enterpriſe, which throws a luſtre over claſſic ages. It is repreſented as one of the firſt ſuggeſtions of untutored reaſon; one of the moſt imperious dictates of enlightened philoſophy. Reaſon and philoſophy are employed to a very beneficial purpoſe, when they illuſtrate the true nature and enforce the obligation of patriotiſm. But they are not the only foundations on which the duty of patriotiſm reſts; nor the only ſources from which its true nature may be collected.

It

It is not unuſual with thoſe who in modern times aſſume the character of philoſophers, to conceive that they aim at the Chriſtian religion a thruſt which cannot be parried, when they affirm that it does not inculcate patriotiſm upon its followers. To this aſſertion ſincere believers in Chriſtianity have ſometimes given countenance, erroneouſly conceiving patriotiſm to imply either an excluſive love for our countrymen repugnant to that univerſal benevolence which the Goſpel requires; or at leaſt ſuch a degree of partial regard to them, as in practice would almoſt inevitably produce injuſtice and unkindneſs towards (*q*) foreigners. The following facts and obſervations may poſſibly contribute to throw ſome light upon the ſubject.

(*q*) That patriotiſm founded on Chriſtian principles is likely to produce the oppoſite effect, might have been diſcerned from a parallel inſtance occurring every day. Is not peculiar warmth of affection in the various relations of domeſtic life enjoined by Chriſtianity? And does this affection tend to render men devoid of equity and benevolence towards perſons not of their own family? On the contrary, is it not undeniable, that they who feel it in the greateſt degree are uſually no leſs remarkable for general philanthropy?

The

The nations who at the time of the promulgation of Chriftianity formed almoft the whole of the civilized world, were the Jews, the Greeks, and the Romans. They were the nations to whom the new religion was firft preached by its Founder and by his Apoftles. Of thefe nations, the Romans eyed all others as their deftined vaffals; the Greeks defpifed them as barbarians: the Jews detefted them as accurfed. To look upon all foreigners with unbridled ambition, with arrogant difdain, and with intolerant hatred, was their patriotifm. Their love of their own country was comprifed in utter enmity to all the reft of mankind. Was it probable then, I would afk any candid enquirer, that Chrift and his Difciples, when addreffing themfelves to hearers filled with fuch extravagant and abominable prejudices, would deal largely in exhortations to patriotifm? Was it probable that they would deliver even a fingle *exprefs* exhortation? Would not a teacher, fuppofing him poffeffed only of *human* wifdom, who had experienced the obftinate (*r*) reluctance with which

(*r*) To be convinced of the very ftriking degree in which the

which the new converts received precepts repugnant to their favourite maxims, who had marked with what aſſiduity they endeavoured to accommodate the interpretation of them to their rooted prepoſſeſſions, have perceived, that any direct inſtructions which he ſhould deliver to his hearers relative to the proper love of their country, would by them at leaſt, in all likelihood, be forgotten or perverted? And would he not have concluded that the

the twelve Diſciples themſelves manifeſted this reluctance, it will be ſufficient to read the account given in the Goſpels of the manner in which they received Chriſt's predictions of his impending death, and his promiſe of a ſpeedy reſurrection. The former, if we may judge from St. Peter's conduct, they at firſt utterly refuſed to credit; and after they had ſeen them punctually fulfilled, they remained altogether hopeleſs of the completion of the latter. "Expecting a victorious and immortal Meſſiah, they "choſe, when he ſpoke of himſelf as one who was to be "taken and crucified, rather to put any meaning, or none, "upon the prediction of his death, and conſequently of his "reſurrection, than to underſtand each in its plain meaning." Secker's Sermons, vol. iv. p. 166. In like manner, from the Epiſtles of St. Paul we find that the Jewiſh Chriſtians reſiſted with the utmoſt obſtinacy the abolition of the Moſaic law, and the admiſſion of the Gentiles into the church.

moſt effectual method of impreſſing them and their poſterity with juſt ideas of the import and obligation of patriotiſm, would be to leave them to the natural influence of a ſyſtem, which enjoins as indiſpenſable thoſe diſpoſitions of the heart from which the pureſt patriotiſm muſt neceſſarily flow; to the effect of thoſe collateral precepts and examples contained in its records, in which the pureſt patriotiſm is impliedly recommended and enforced?

It was this method to which Chriſt and his Apoſtles were led by wiſdom from above. Our Saviour did not in plain terms admoniſh men particularly to love their countrymen; but his whole doctrine and conduct were calculated to inſpire them with patriotiſm purified from the corruptions which had long defaced it. The fundamental principle which he took every opportunity of impreſſing on the nation to whom his own miſſion was confined, was calculated to ſubvert their pernicious and contracted maxims. It was the principle of univerſal benevolence. He taught the narrow-minded Jew that all men were the chil-

dren of God, and alike dear to their Creator; that the abhorred Samaritan was his neighbour; that the polluted Gentiles, the inhabitants "of "the Eaſt and of the Weſt, of the North and "of the South," were to receive the privileges and bleſſings of the Goſpel; "to ſit down with "Abraham, Iſaac, and Jacob, in the kingdom "of heaven." But in the next place, to theſe precepts of benign and general philanthropy he added, as occaſions preſented themſelves, many ſpecial obſervations and injunctions, partly declaring love towards each other to be the characteriſtic of his diſciples; partly confirming and ſtrengthening, in a manner more or leſs obvious according to the nature of the circumſtances which aroſe, thoſe previouſly received laws of morality which inculcated domeſtic and ſocial affections. Now, though theſe obſervations and injunctions had no apparent reference to patriotiſm, yet they were all deſigned to enforce the principle from which alone true patriotiſm is derived, and from the reception of which it muſt neceſſarily reſult; namely, that thoſe, whom any peculiar bond of union connects, are under peculiar obligations to mutual attachment; that

every tie, however ſlight, which links man to man, forms an additional thread in the band of ſympathy. From the precepts of Chriſt let us paſs to his example. Was not the whole period of his miniſtry a ſcene of patriotiſm, manifeſting itſelf in enduring the moſt cruel uſage from his own nation for the purpoſe of promoting its happineſs? His miſſion, it may perhaps be ſaid, was expreſsly to the Jews; he could not have ſhrunk from their malice without deſerting his undertaking. Beſides, whatever he ſuffered was not merely for their advantage, but for that of all mankind. Be it ſo. But did his eſpecial miſſion to the Jews, or his gracious purpoſes towards mankind at large, ſeem to call for the affectionate concern which he felt to his laſt hour for his ungrateful and malevolent perſecutors? Did they call for ſuch pathetic lamentations as we find him repeatedly uttering over the impending fate of Jeruſalem? Did they evidently require Chriſt, after having made one attempt at the riſk of his life to convert *his own countrymen of Nazareth*, to return thither a ſecond time, for the ſame purpoſe and at the ſame hazard? Is there nothing in all theſe tranſactions of the ſpirit

ſpirit of genuine patriotiſm? Such was the leſſon impreſſed on the Jews. Let the objector, in the next place, ſatisfy himſelf what the Gentiles learned from their great Apoſtle. Let him hear St. Paul teaching them, that their injuſtice and fraud were aggravated by being directed againſt "*the brethren* (*s*);" and enjoining them to "do good unto all men, *eſpecially* "*unto thoſe of the houſehold of faith*;" to ſhew warm and unceaſing love in the relations of huſbands and wives, of parents and children: thus leading them, in the ſame manner as Chriſt had led his hearers, to the principle already ſtated as the real and neceſſary ſource of patriotiſm. Let him hear the Apoſtle coming ſtill nearer to a plain inculcation of the duty in queſtion, and ſolemnly profeſſing, that for the ſake of *his brethren the Jews* he could even wiſh to be anathematized from Chriſt, to ſuſtain in their ſtead the temporal judgments of God about to overwhelm them. Finally,

(*s*) "Nay, ye do wrong, and defraud; and that the bre-"thren." 1 Cor. vi. 8. St. John's direction, "We ought "to lay down our lives for the brethren," 1 John, iii. 16, is alſo applicable to the point in queſtion. See likewiſe Romans, ix. 1—3. x. 1, &c. xi. 14, &c.

let him lay together all the facts which have been adduced; let him estimate their united weight; and then say whether pure patriotism is not more than countenanced, whether it is not commanded, by Christianity.

The duty being established, it remains to subjoin some brief remarks on the manner of fulfilling it.

The natural and most effectual method by which each individual may evince his love to his country, is by conscientiously striving to discharge, with fidelity and diligence, the special duties of his station; and by studiously availing himself of those opportunities of promoting the public good, which his rank and occupation in society afford him. The peculiar duties and opportunities of doing good, which attend different stations in life, will be distinctly considered hereafter. The present chapter is designed for observations applicable to British subjects in general.

The greatest benefit which any man can render to his country, is to contribute to the

diffusion

diffuſion of religion and virtue, of ſcience and learning, of intellectual and civil liberty, of general tranquillity, harmony, and competence. To attend to theſe objects, and to each of them in proportion to its relative importance, is the office of patriotiſm. There is no perſon who has it not in his power to promote them, in a greater or a leſs degree, by inſtruction and example. The latter mode is the more attractive; it has the advantage too of being at all times attainable, and of being a viſible incitement to numbers to whom inſtruction cannot eaſily be conveyed. Admonition itſelf, when thus ſeconded, has a grace and an energy, which few but the moſt careleſs or the moſt hardened can entirely withſtand. Let the man then who loves his country endeavour to render himſelf and his family a pattern of chriſtian virtue, of uſeful but unaſſuming knowledge, of modeſt and ſimple manners. Let him exert himſelf, as far as a fit coincidence of circumſtances may enable him, to impreſs on the hearts of his friends and acquaintance the momentous truths which are near his own. Let him ſelect his companions, as far as may poſſibly be done, from the good and

the intelligent. Let him be on the watch to ſtem the increaſing tide of luxury and diſſipation. Let him be ready to reconcile diſagreements, to refute calumnies, to counteract and eradicate prejudices. Let him encourage the virtuous and induſtrious poor; and diſcountenance and ſeek to reform the profligate and the idle. Let him patronize public inſtitutions which are likely to cheriſh the ſpirit of religion, to enlarge the ſphere of knowledge, or to diſpenſe uſeful charity. Let him forward every plan which promiſes general benefit, though it be attended with ſome ſacrifice of his private intereſt and convenience. In every way, as far as his ability and influence extend, let him advance the welfare of his fellow-ſubjects: let him aid them by his advice, let him relieve them by his bounty, let him befriend them by his exertions, let him remember them in his prayers. He who fulfils theſe duties is a true patriot. He may paſs his life in obſcurity; he may have no opportunity of rendering ſplendid ſervices to his native land; but the effect of his labours may reach even to multitudes. The brook that flows in ſilence through the valley, ſwells the

ſtream

ſtream of the mighty river, which diffuſes plenty and proſperity over empires.

There is yet one topic remaining, connected with the ſubject recently conſidered, on which it may be adviſable to make a few remarks; and as they will relate to moſt of thoſe who occupy the upper and middle claſſes of ſociety, they may properly be introduced in this place. The point to which I allude is the degree of attention, which perſons not immediately engaged in the adminiſtration of public affairs ought to pay to the conduct of Government. There are two extremes into which it is not very uncommon for men of this deſcription to deviate. Some from a reſtleſs curioſity, ſome from a meddling ſpirit of interference, or from a deſire to raiſe themſelves into importance in the eye of their neighbours, take a buſy and eager part in every public meaſure, frequently the moſt buſy and eager part in thoſe meaſures with the drift of which they are leaſt acquainted; and are never ſatisfied except when they are engaged in the heat of political diſcuſſions, in contriving popular meetings, and in the fabrication of reſolutions, petitions, addreſſes, and

and remonſtrances. By continually diſplaying their ignorance in open view, by obtruding on their fellow-citizens their crude and impracticable ſchemes, they preclude themſelves from attaining real political weight. Their cenſure and approbation, alike ill-timed or miſplaced, generally defeats its own object; their private affairs in the mean time are neglected, and go to ruin; and while they repreſent themſelves as glorioufly ſacrificing every thing to the public good, they experience the ridicule, contempt, and diſlike, which fall to the lot of viſionary and troubleſome projectors. Nor is this the worſt effect of their abſurdity. They bring a general odium and diſcredit on all popular enquiry into the conduct of the Legiſlature, on the moſt ſalutary ſpecies of control which a people can exerciſe over its deputed rulers; and thus contribute to rivet others in an error, oppoſite indeed to their own, but equally prejudicial to the welfare of ſociety. For they who from indolence, from apathy, or from a diſtaſte to political inveſtigations, profeſſedly decline all exerciſe of inſpection and ſuperintendence over the conduct of thoſe to whom the management of national affairs is committed, uſually

vindicate

vindicate themſelves by deriding the blunders and extravagancies of ſelf-conſtituted politicians. But they are not ſufficiently aware of the natural conſequences of the ſupineneſs which they recommend. No circumſtance ſo effectually deters the Government of any country from involving itſelf in unjuſt or pernicious enterpriſes at home or abroad; no circumſtance ſo powerfully ſtimulates it, when engaged in them, to meaſure back with ſpeed the ſteps which it had taken; as the conſciouſneſs that the vigilant eye of the people is fixed on all its proceedings. He is the ſincere and the wiſeſt friend of his country, who, aware of the fallibility of the moſt experienced Adminiſtration, and of the almoſt irreſiſtible temptations which are attached to the poſſeſſion of authority, regards with ſtedfaſt though unoſtentatious attention the conduct of thoſe who manage the affairs of Government; who gives them every degree of reaſonable confidence, makes candid allowances for their unintentional defects, and forbears to weary and embarraſs them by interference on trivial occaſions; but who is at all times ready on a criſis of importance, whether it be for the purpoſe of fur-

thering equitable and beneficial undertakings, or of counteracting meaſures which are iniquitous and impolitic, to give a temperate yet a manly and decided teſtimony of his opinions, by communications to his Repreſentatives, by petitions to Parliament, by addreſſes, and, if circumſtances require, by remonſtrances to the Throne.

CHAP.

CHAP. V.

ON THE DUTIES OF PEERS.

OUR enquiry into the peculiar duties of thoſe claſſes of ſociety, which fall within the limits of the plan propoſed, leads us in the firſt inſtance to an order of men elevated above their fellow-ſubjects by the honours and privileges of Peerage.

It may be proper in the outſet to premiſe a few brief obſervations, reſpecting the conſtitutional purpoſes which a Houſe of Lords is intended to anſwer.

At one time we have heard ſober argument alleged, to ſhew the impolicy of inveſting a body of men with ſuch extenſive powers on grounds independent of perſonal merit; and at another, ridicule has been employed in conſtructing compariſons between hereditary legiſlators and hereditary poet-laureats. It is not however difficult to ſtate ſeveral very important ends, which this part of the Conſtitution is calculated

culated to accompliſh; conducive at once to the ſtability of the remaining parts, and to the preſervation of popular liberty.

1. In conſequence of the neceſſity to which every Bill paſſed by the Houſe of Commons is ſubjected of being reconſidered in all its parts in the Upper Houſe, and undergoing the delays occaſioned by various forms and ſtanding orders, by means of which the number and intervals of diſcuſſions may be protracted almoſt to whatever length the ſituation of affairs renders adviſable, and are uſually protracted to a conſiderable length, except in caſes of great and real urgency; the intrinſic merit of any propoſed meaſure becomes much more likely to be aſcertained. It is not merely that a longer period for deliberation is afforded; that time is allowed for ferments to ſubſide; that further opportunities are given for perſons intereſted in the fate of the Bill to produce evidence in ſupport of their reſpective opinions; and that both its friends and its enemies without doors are enabled to come forward afreſh with particular advantage, by having mutually learnt during its paſſage through the Lower

Lower Houfe the ftrongeft arguments offered in its behalf, and the moft powerful objections urged againft it: but in addition to circumftances fo favourable to a juft and wife determination, the tribunal which tries the caufe is altogether new; the members who form it, collectively confidered, are refpected for their talents, knowledge, and integrity; and, though expofed by their ftation to prejudices of their own, are likely to be exempted from many by which the decifions of the Houfe of Commons may have been influenced. The latter peculiarity will more efpecially incline them to confider with the moft fcrupulous attention, and except in great emergences will induce them to reject, Bills which they conceive to have originated in the fudden heat of popular phrenfy; and to ftem the torrent of democratic power, if it fhould pafs its eftablifhed bounds.

When a Bill originates in the Houfe of Lords, advantages in moft refpects fimilar to thofe which have now been enumerated refult from its being obliged afterwards to go through the Houfe of Commons.

2. The

2. The Houſe of Lords is interpoſed as a bulwark between the Crown and the People; and eventually defends the conſtitutional rights of both by withſtanding the encroachments of either. To this uſeful line of reſiſtance its members are led by principles inherent in the very nature of Peerage, and therefore promiſing to be permanent. Their attachment to the Crown as the ſource of the honours which they poſſeſs, and of the further elevation to which they may aſpire; and the dread of changes, which may detract from their pre-eminence, but can rarely be expected to increaſe it, have an obvious tendency to engage them in the defence of the royal prerogatives. Theſe principles however, when conſidered in a moral point of view, are not the pureſt; and muſt be expected ſometimes to operate with too ſtrong a bias. Yet this bias will be materially checked in the minds of Peers by the conſciouſneſs, that if once the Crown were to extend its authority by trampling on the rights of the Commons, they might themſelves be preſerved in ſplendid trappings to gild the pageantry of a Court, and be convened under ancient ſolemnities and forms to give con-

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ſtrained approbation to royal edicts; but would not long retain the free enjoyment of thoſe functions in which their true dignity is placed, the exerciſe of legiſlative and judicial power.

The Houſe of Lords is continually led to perform its office of keeping aſunder the monarchical and democratical branches of the Conſtitution, and preventing the innumerable and perhaps remedileſs evils which would reſult from their colliſion, in a manner ſingularly advantageous. It uſually maintains the balance, not by profeſſedly ſtanding forward in ſupport of the one againſt the other, but by watching with a careful eye over the preſervation of ſome of its own rights, which are clearly important to the public welfare; and may alternately ſave the prerogatives of the Crown and the rights of the People from fatal inroads, while it deems itſelf to be occupied in mere ſelf-defence. Thus both the Crown and the Houſe of Commons may frequently perceive the barriers of their reſpective privileges ſtrenuouſly defended without any exertions of their own; and without being reciprocally filled with that diſguſt and ſuſpicion, or im-

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pelled to thoſe animoſities and attempts at repriſal, which would inevitably ariſe were they to find themſelves engaged in an immediate conteſt with each other.

The inſtitution of Peerage likewiſe tends eventually, by exciting a difference of ſentiments and views in different claſſes of the community, to preclude any private individual from acquiring ſuch predominant influence over his countrymen as to become dangerous to public liberty. Were a Peer to make the attempt, he would ſcarcely be ſupported by the confidence and ſympathy of the People and their Repreſentatives. And a Commoner who ſhould undertake a ſimilar enterpriſe would experience the want of perſonal dignity and ſplendour, and would be much more likely to be counteracted by the jealouſy than to be aided by the co-operation of the Peers.

3. This inſtitution enables the Crown, or, as it may with more propriety be ſaid, the Nation by the diſcretional agency of its Firſt Magiſtrate, to reward men who have diſtinguiſhed themſelves in the public ſervice; and

to reward them in a manner the moſt gratifying to their private feelings, and the leaſt expenſive to the country. It contributes likewiſe, if that is to be deemed an advantage, to cheriſh in the minds of Peers a high ſenſe of honour. This is a principle, which, when it proves, as on inveſtigation it moſt frequently would prove, but another name for pride, can expect no praiſe from chriſtian morality, even if it ſhould chance to produce incidental good. Nor has any man who acts on no better motives reaſon to feel his conſcience at peace. The utmoſt which thoſe who are moſt deſirous of vindicating the principle can allege is this; that it is one which, however limited and fickle in its operation, however weak in reſiſting inordinate paſſions, may occaſionally bridle the vices of thoſe whom negligence may have left unacquainted with the reſtraints of reaſon and religion, and whom youth and diſſipation might otherwiſe hurry into greater and worſe exceſſes. It tends alſo to kindle generous emulation, to rouſe and diffuſe the ſpirit of patriotic exertions. At the ſame time it muſt be allowed, that the good effects of this emulation are in ſome meaſure counter-balan-

ced by the envy and diſcontent awakened in the breaſts of thoſe who conceive themſelves neglected; and by the occaſional elevation of men, whoſe promotion ſeems altogether indifferent, if not injurious, to the public welfare. The former however of theſe conſequences might be obviated to a conſiderable degree, and the latter entirely prevented, by proper attention on the part of thoſe who ſelect the perſons to be raiſed to the dignity of Peers.

Such are the conſtitutional uſages of the Houſe of Lords; and they are unqueſtionably great. An accurate acquaintance with them is an object of the firſt concern to each individual Peer, and will materially illuſtrate the general line of his duty.

Yet in common with every arrangement in human ſociety, the eſtabliſhment of the order of Peers has its peculiar inconveniences. It inclines the mind of each member of the order to adopt and cheriſh various opinions founded on prejudice; and ſubjects him to many appropriate and powerful temptations. Theſe prepoſſeſſions and allurements have a natural tendency

tendency to cloud his underſtanding, and warp his deciſions. They diſpoſe him to take for granted the propriety of erroneous and doubtful principles of action; to be miſled in the application of reaſonable principles; and to be biaſſed by the impulſe of ambition and intereſt. They prove equally injurious in their conſequences, when permitted to prevail, to his own true happineſs and to that of the public.

The paſſion which ſtrikes the deepeſt root in the breaſt of the Nobleman is pride. Raiſed above his fellow-citizens, he is prone to look down upon them with contempt; and to treat them with repulſive formality, with lofty indifference, or with arrogant condeſcenſion. The ſentiment of pride is cheriſhed in the hereditary Peer by his recollection of the recorded nobility of his anceſtors; in the newly-created Lord, by a fondneſs for his recent dignity, and an opinion of his perſonal merit and importance. Hence they are alike tempted to regard themſelves, not as public officers inveſted by their equals, and ſolely for the general good, with peculiar honours and authority; not as magiſtrates reſponſible in their collective

capacity to their country, and poſſeſſing functions which the Nation at large retains a right to abridge or annihilate, if experience ſhould ever prove their continuance uſeleſs or noxious; but as holding their legal rights by an indefeaſible preſcription, never to be queſtioned under any poſſible circumſtances whatever becauſe it has once been eſtabliſhed. Hence too they are liable to be actuated by a ſecret deſire of enlarging the prerogatives of the Peerage, and to look with a jealous eye on the powers enjoyed by the ranks of ſociety inferior to themſelves; eſpecially on the privileges and juriſdiction of the popular Repreſentatives, which they perceive to be more nearly on a level with their own, and feel a continually operative reſtraint. From the concurrence of all theſe motives they are apt to entertain an unconquerable averſion to meaſures which they deem the reſult of vulgar prejudice; and frequently permit their love of order (*a*) to degenerate into an indiſcriminate oppoſition

(*a*) This principle, laudable in itſelf, may be expected frequently to act with too ſtrong a bias on thoſe members of the Houſe of Peers in particular, who owe their dignity to

opposition to reform and innovation. These circumstances, joined to their attachment to the Crown as the fountain of honour, and their propensity to the splendour and pomp of a Court in which they are habituated to move, will naturally incline them to give every degree of preponderance to the monarchical branch of the Constitution compatible with their own legislative weight. As members of the Legislature, they are under strong temptations to be influenced in their public conduct by views of personal honour and emolument; and are especially exposed to them after having once tasted the pleasure of being elevated from a lower to a higher degree in the scale of pre-eminence. For it is not unknown to those who have opportunities of inspecting the proceedings of persons in public life, that he who is advanced to any rank of nobility is usually

to eminence in the Law, or to their stations in the Established Church. For the natural effect of their professions is, to dispose them in favour of every thing which has the sanction of precedent and the authority of ancient custom. And as their advancement to the Upper House seldom takes place until the earnestness and alacrity of youth have subsided; their time of life in general strengthens their disinclination even to moderate and reasonable changes.

more ambitious to be raiſed a ſtep higher, than a Commoner of diſtinction is to be created a Peer. And finally, they are not unfrequently ſeduced by the conſtitutional permanency of the rights which they poſſeſs (a permanency eſſential to the proper diſcharge of thoſe functions, and the attainment of thoſe important ends, in which the utility of an order of Peerage conſiſts) to ſink into indolence and ſupineneſs, and to loſe all zeal for diſtinguiſhing themſelves by meritorious exertions.

A thorough inſight into the prejudices and temptations peculiar to elevated rank is no leſs requiſite to a Peer than an intimate knowledge of his poſitive duties. Neither are theſe diſadvantages to be overlooked by the Commoner, who has the option of a Peerage. For he is bound in the ſight of God, while he eſtimates on the one hand the enlarged opportunities of doing good which he may gain by the promotion, fairly to appreciate on the other the additional danger of contracting blamable habits, views, and diſpoſitions, to which himſelf, his family, and his connections may be likely to be expoſed by his acceptance of it;

and

and to decide, not from the ſuggeſtions of vanity or ambition, but according to the preponderance of thoſe motives alone which Chriſtianity recognizes and approves. Similar reflections, as far as they are applicable, ought to determine the Peer who has the offer of advancement in rank, as to the anſwer which he gives to the propoſal.

The duties which, in addition to the general obligations of Britiſh ſubjects, are immediately incumbent on Peers, relate either to the diſcharge of their public functions, or to their conduct in private life. Thoſe of the former deſcription may properly be inveſtigated in the firſt place.

I. The public duties of a Peer, that is to ſay, the duties ariſing from his ſituation as a member of the Upper Houſe of Parliament, afford a wide field for practical remarks. Appointed to watch over the welfare of the realm, and entitled to a permanent ſeat in its councils, he is bound early to direct his views to the ſubjects likely to be brought before him, and to furniſh himſelf with information on the

the great variety of topics connected with national ſecurity and national duty. He is to render himſelf converſant with the fundamental principles of civil ſociety, and of legal government; with the rights of individuals and of nations. He is to render his mind familiar with the elements of foreign and domeſtic policy, of commerce, of finance, of juriſprudence; to inveſtigate the grounds of the ſyſtem of colonization, and the proper treatment of foreign poſſeſſions in their infant, their mature, and their declining ſtate; to ſcrutinize the general ſources of the proſperity, and the cauſes of the decay, of empires; more eſpecially of thoſe which in the form of their internal government, in the manners and diſpoſitions of the inhabitants, or in their relative ſituation with regard to foreign powers, moſt nearly reſemble his own country. Throughout the whole extent of his enquiries it is his part to unite the concluſions of reaſon and of experience; and to illuſtrate the truth of theoretical principles by references to the hiſtories of preceding ages. His mind being ſtored with theſe elementary treaſures, he will proceed to apply them to their intended objects. He will

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acquire an accurate knowledge of the ſtate of affairs exiſting at home: he will make himſelf thoroughly acquainted with the Britiſh Conſtitution, with the offices, powers, connections, and dependencies of its ſeveral parts, legiſlative and executive: he will trace the riſe and progreſs of each; the alterations which they have reſpectively undergone; and the effects, whether beneficial or injurious, which each change has actually produced, or had an apparent tendency to produce, on the public happineſs. He will examine the links by which Great Britain is connected with other nations; and will attend with minute care to the more important treaties of alliance and of commerce by which ſhe is bound. He will mark the origin, the extenſion, and the exiſting ſtate of her revenues, of her judicial ſyſtem, of her military and naval eſtabliſhments, of her foreign trade, and of her domeſtic manufactures. He will acquaint himſelf with her internal police, and with the general ſtate of arts, ſcience, and literature, of manners, morals, and religion. He will attend to the effects which the ſyſtem of colonization purſued by Great Britain has produced both in

the Mother Country and in the Colonies; and will learn the actual ſituation of her diſtant poſſeſſions. In theſe various branches of enquiry he will contraſt the conduct of his own country with that of other nations, and obſerve the reſult of their different plans. Finally, he will conſider in what particulars the laws and inſtitutions of this kingdom may be rendered more conducive to the public good; how they may be made more efficient, if advantageous; how they may be amended or changed, if uſeleſs or prejudicial.

Let not the preceding ſketch be thought to preſent an impracticable ſcheme of laborious ſtudy; and rather to expreſs the neceſſary qualifications of the Peerage at large, than the needful attainments of an individual Peer. It certainly is not to be expected that every member of the Houſe of Lords ſhould prepare himſelf to enter into all the details, to which each ſubject of inveſtigation which has been noticed would lead, if purſued to its full extent. But without a comprehenſive knowledge of the general principles which each of thoſe ſubjects involves, and a fund of ſolid in-

formation reſpecting them, it will be impoſſible for a Peer to fulfil his duty in deliberating and deciding on the numerous and complicated meaſures which are neceſſarily to come before him. The effects of being maſter even of a few of the articles already ſpecified, would be ſuch as might well encourage further application. An hereditary ſeat in the Legiſlature is ſo far from being a ſituation which ought to repreſs induſtry and exertion; that were a Nobleman to take proper and timely means of employing his abilities, of what ſort or ſtrength ſoever they might be, he would find his pains rewarded by a greater addition of reputation, of conſequence, of power to do good, of advantages of every kind, than would be attainable by equal efforts in any different line of life, the other Houſe of Parliament only excepted. A Peer who conſults the ſatisfaction of his own conſcience will acquire a more than ſuperficial acquaintance with every object which falls within the province, and is likely to be brought under the cognizance, of the Houſe of Lords. But his views will be more cloſely fixed, and his exertions more ſtrenuouſly employed, on thoſe ſelect purſuits

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which his profeſſion, his peculiar talents, the bent of his diſpoſition, his opportunities of gaining intelligence, his local ſituation, or any adventitious circumſtances, entitle to preference. The pilot will ſtrive to gain a general knowledge of the creeks and ſhoals in every channel which his office may occaſionally oblige him to navigate; but he will be chiefly attentive to the ſoundings between thoſe particular harbours, which his buſineſs uſually leads him to frequent.

The Nobleman who has the laudable induſtry to poſſeſs himſelf of theſe acquiſitions of knowledge, will not deſpiſe or overlook an attainment indiſpenſably requiſite to their full luſtre and utility, the talent of public ſpeaking. This talent is to a certain degree original: unleſs ſtrong and ample foundations have been laid by the hand of nature, a ſplendid ſuperſtructure cannot be raiſed by the utmoſt efforts of art. Yet there are few ſo ſparingly endowed with the powers of elocution, as to be incapable of qualifying themſelves, by perſevering and judicious endeavours, to deliver their ſentiments in debate with facility and

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effect. And there are none, however eminent for natural abilities, who may not derive from ſtudy and reflection the moſt eſſential aid in attaining to that ſelf-command; that enlarged conception of the ſubject under diſcuſſion; that methodical view of its ſeveral parts and bearings; that manly copiouſneſs of expreſſion; that fund of brilliant and appoſite imagery; without which the ſoundeſt reaſoning may be devoid of perſpicuity, of energy, and of grace, and fail to carry conviction to the breaſt even of the moſt unprejudiced audience. A frequent and contemplative peruſal of the works of the ancient maſters of oratory, and of thoſe moderns who have been the moſt diſtinguiſhed for convincing the underſtanding and intereſting the paſſions; attention to their mode of arrangement, to their choice of arguments and illuſtrations, and to their ſkill in adapting the ſtyle as well as the matter of the diſcourſe to the ſubject on which they ſpoke, and the perſons whom they addreſſed: theſe are the methods to be purſued by the parliamentary ſpeaker, if he ſeeks to tread in the ſteps of his illuſtrious predeceſſors; much more if he aſpires to produce impreſſions on his hearers

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ſimilar to the wonders wrought by eloquence in claſſic ages, and to equal the monuments of Grecian and Roman fame. But let him beware of being betrayed into an affectation of ſyſtem and a pedantic diſplay of learning; let him not ſuffer the love of applauſe to occupy his breaſt inſtead of the deſire to do good. Nor let his attainments in oratory, whatever they may be, lead him into the habit of pragmatically obtruding his ſentiments on the Houſe at inopportune ſeaſons; with more frequency than his ſituation juſtifies; or with greater prolixity than the ſubject under diſcuſſion requires. Repeated inſtances have occurred of parliamentary ſpeakers, who by inattention to theſe circumſtances have given permanent diſguſt to their hearers; have eſſentially lowered themſelves in the public eſtimation; and have radically impaired their power of benefiting their country.

It ſometimes happens even in the Upper Houſe of Parliament, though much more frequently in the Lower, that a young man of abilities, ſoon after he has taken his ſeat, makes his entry on the ſtage of debate in a prepared ſpeech

ſpeech of very conſiderable length. Yet, except under circumſtances extremely peculiar, this method of proceeding muſt be pronounced injudicious; both as being little accordant with the ingenuous diffidence of youth, and calculated rather to procure to the ſpeaker ſome premature and tranſient applauſe, than to pave the way for his attaining and permanently enjoying the well-earned praiſe of eloquence. The imputation of vanity and preſumption will almoſt inevitably attend him. And however diſpoſed his hearers may be to make reaſonable allowances for theſe failings, the impreſſion which each of them produced will revive in their minds as often as the memory of the oration recurs. If he exhibits (and where is the young man who is not in danger of exhibiting?) ſome deficiency of judgement or of information; he ſo far defeats the very purpoſe which he has in view. If he acquits himſelf according to his own ſanguine wiſhes, a large deduction from the credit which he expects will be ſecretly made by the audience, prone to aſcribe no extraordinary merit to a formally premeditated and laboured harangue. If he opens the debate,

this defalcation will be carried to its utmoſt extent. If he riſes at a later period, he has more than common good fortune, if his arguments have not already been in ſome degree anticipated and refuted. Add to theſe conſiderations the envy and the conſequent averſion likely to be excited by his ſucceſs in the breaſts of other members of the Houſe, jealous of being outſtripped or equalled by a youthful, and, as it ſhould ſeem, a ſelf-important and ambitious competitor. The elated orator in the mean time conſtrues in their literal acceptation the hyperbolical compliments beſtowed by the partiality of his friends, and the encouragement which he receives from the candour and liberality of the Houſe, willing to cheriſh the firſt efforts of promiſing abilities. Hence he contracts an overweening opinion of himſelf; and a diſdain, not eaſily ſubdued, of taking an unoſtentatious part in thoſe common diſcuſſions, which, while they preſent many opportunities of doing good, and the beſt opportunities of acquiring a real knowledge of buſineſs, afford little room for a brilliant diſplay of talents and elocution. He fears that he ſhall degrade himſelf from what

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he deems the height of acknowledged reputation and pre-eminence, if he defcends to the level of vulgar concerns, and takes a part in matters capable of being conducted by men of ordinary faculties and attainments. Or, confcious perhaps that by his outfet he has raifed expectations which he is unable, or too indolent, to anfwer; he fcorns to occupy a rank in the fcale of public admiration one ftep lower than that to which he originally laid claim, deferts the unalluring fphere of ufefulnefs, and proudly finks into permanent filence and inactivity. Whatever powers of language may be originally poffeffed, it is with the art of public fpeaking as with all other human acquifitions: genuine excellence eludes our grafp, until it rewards the attention of experience and the perfevering diligence of practice. Let not the impatience of youth ftrive in early fpring to rival with forced and unripened imitations the glowing fruits of autumn. Inftead of arrogantly ranging himfelf as an equal by the fide of the leaders of the Houfe, and challenging with rafh defiance a conteft with the veterans of oratory, let the new debater confine himfelf to familiar topics of difcuffion; rifing when he

is impelled by the nature and courſe of the buſineſs, and is ſufficiently maſter of the ſubject, and delivering his ſentiments with unaſſuming ſimplicity and conciſeneſs. It is thus that, acting with modeſty ſuited to his recent parliamentary exiſtence; not embarraſſed by conſciouſneſs that a long and ſtudied oration is expected from him; attracting no rigorous obſervation, rouſing no prejudices, expoſing himſelf to no obloquy and ſuſpicion; gaining unreſerved credit when he excels, and loſing little though he ſhould chance to fail; he will lay the groundwork of future eminence in a continually increaſing reputation for judgement and knowledge: and gradually advancing, as he feels his ſtrength augmented by exerciſe, and his talents called forward by general favour, into the foremoſt ranks of debate, he will obtain that honeſt diſtinction, and that power of benefiting his country, which the flaſhes of eager oſtentation could not have permanently ſecured, and might have prevented for ever.

While the Legiſlator is earneſtly engaged in augmenting the treaſures of his mind, let him

remember that their proper application depends folely on the difpofition of the heart. It is there that he is to fix that refolute and ftubborn fenfe of duty, which may fortify him againft the attacks of vanity, felfifhnefs and ambition, the partial folicitations of friendfhip, and the overwhelming influence of falfe fhame; and may even fupply to a certain degree the place of a fuperior underftanding, by relieving his judgement from the bias of thofe culpable motives and prepoffeffions, which frequently prove the fources of erroneous conclufions. In order to preferve this principle at once pure in itfelf and efficacious in governing his conduct, let him refolve from the firft moment of his outfet in public life to fhun the fnares of party. Let him be ftudioufly felect in the choice of his political acquaintance, and beware of contracting intimacies with perfons who profefs themfelves, or who are known to be, determined partifans. Let him fteadily guard againft being deluded by the flattering civilities and ftudied notice of the leaders of a party; or by any of thofe lures which the retainers of a party commonly throw out with equal diligence and

cunning to young men entering into public life. (*b*). Let him learn to detect the hackneyed ſophiſm, by which he will hear the ſacrifice of every upright motive palliated and recommended; that a concurrence of many is neceſſary to the ſucceſs of every plan; and that no man can expect the aid of others without being ready to make reciprocal conceſſions and compliances. Let him tell thoſe who urge it, that to co-operate is not to be a partiſan; that co-operation aſks no conceſſions but ſuch as are conſiſtent with morality and religion;

(*b*) In ſome of the ways alluded to, the great political clubs, of which any exiſting party has commonly one or more attached to itſelf, do very great miſchief both to individuals and to the public. There are other moſt ſerious evils with which theſe and ſimilar clubs eſtabliſhed in the metropolis are chargeable; evils which may extend to all who belong to the club, whether political men or not. I refer, not only to the opportunities and encouragement furniſhed to gaming and other groſs vices; but to the prevalence of a ſyſtem of expenſive luxury and ſenſuality, which is found to produce habitual eſtrangement from domeſtic intercourſe and comforts; habitual diſſatisfaction with all ſociety, in which gratifications correſponding to thoſe of the club-room are not attainable; and a gradual ceſſation of familiarity with former friends who are too wiſe to afford them.

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that party requires her votary to violate, either expreſsly or impliedly, the dictates of both;—to affirm what he believes to be falſe; to deny what he knows to be true; to praiſe what he judges unwiſe;—to countenance what he deems reprehenſible. Let him explicitly make known to thoſe with whom he co-operates in political undertakings, that he is an independent friend, who will ſupport them in every meaſure which he ſhall think equitable in itſelf, and conducive to the national welfare; not an articled confederate, pledged to concur in proceedings which his judgement or his conſcience diſapproves. Let him guard with ſcrupulous vigilance againſt raſhneſs in contracting political obligations by a precipitate acceptance of offices or honours. And whenever cool reflection induces him to receive a poſt of employment, or perſonal promotion, from the leader who diſpenſes the favours of the Crown; let him not forget that ſincerity requires him not to leave the donor or the public under miſtaken ideas of his having engaged to make that return, which prevailing cuſtom may have taught the one regularly to expect, and the other to behold without ſur-

priſe. A diſregard of theſe precautions has made many men criminal, many ſuſpected, and many unhappy. The evil too, though it may be prevented, is frequently incapable of being remedied. The man, who has been advanced in rank, cannot reduce himſelf to his ancient level. An office may be reſigned; but the character may have been ſtamped by the mode of obtaining it. The burthen may be ſhaken off; but the marks which it has impreſſed may remain for life.

It is a prevailing complaint, that few Peers who are not inveſted with offices, nor candidates for them, are ſufficiently ſedulous, except on particular occaſions, in their attendance at the Houſe of Lords. This circumſtance ought to operate as an admonition on each individual member. And the poſſeſſion of a permanent ſeat, while it ſecures a Nobleman from incurring by neglect the forfeiture of his ſtation, will prove on that very account, to a generous mind, an incitement to diligence.

The public functions of a Peer are twofold; thoſe of a Legiſlator, and thoſe of a

Judge.

Judge. In the former capacity, it is his buſineſs to promote the glory of God by endeavouring to promote the true happineſs of this Nation, and that of other nations as far as it depends on the conduct of this. In the latter, by an attentive examination of the caſe brought before him, and an impartial adherence to law, or, where law leaves him undirected, to ſubſtantial juſtice, in his deciſion.

In all public meaſures which have an evident bearing on the happineſs of foreigners, regard is to be paid to thoſe principles of juſtice and benevolence which ought to be obſerved in tranſactions between individuals. In the eye of Chriſtianity, all men are brethren; in that of upright policy, nations are individuals to each other. The conſcientious Legiſlator will feel the ſame abhorrence of involving Great Britain in a war on any other grounds than thoſe of indiſpenſable ſelf-defence, or of affording ſtipulated protection to allies, or welcome ſuccour to the oppreſſed, which would ſtrike him at the idea of embruing his own hands, through ſelf-intereſtedneſs, rancour, or revenge, in the blood of a fellow-

fellow-ſubject. During the courſe of the moſt proſperous hoſtilities he will at all times be anxious for peace, on any terms which would afford a reaſonable compenſation for injuries received, and a reaſonable proſpect of future ſecurity. And if this country ſhould be enabled, by the bleſſing of Providence on her arms, to reduce the enemy to ſubmiſſion, he will warn her to liſten to the voice of Chriſtian charity; "to do as ſhe would be done by, to love her "neighbour as herſelf," and to relax, as far as prudence will permit, thoſe rigid conditions which ſtrict right may entitle her to impoſe. In the conſideration of treaties of alliance with other powers, he will ſteadily reſiſt every clauſe which apparently may be the means of engaging his own country in the ſupport of an unjuſt war, or in the proſecution of a juſt war to unreaſonable extremities. In diſcuſſing treaties of commerce, he will not act for Great-Britain on the narrow principles of a tricking agent; but, conſcious of his duty to do good to all mankind, he will recommend that mutual communication of advantages which may cement the friendſhip, and excite and reward the induſtry, of both the contracting

parties. He will not promote trade at the expence of morality. He will not confent in behalf of his country to any propofed regulations, in confequence of perceiving that they would enable her to fpread her manufactures by fmuggling. In framing laws which relate to the diftant poffeffions of Great Britain, he will confider himfelf as the common guardian of the mother country and of her dependencies; and bound to confult the welfare of *all* the inhabitants of the latter, whatever be the hue of their complexions.

In determining, on the grounds which have already been explained, the meafures to which he fhall direct his principal attention; he will be folicitous to include thofe in the number which are at once important in themfelves, and not likely to be undertaken by others. Of this defcription are various political inveftigations, which are attended with much labour and little popularity. He will make it his object to obtain not only the redrefs of thofe grievances, and the reform of thofe abufes, which refult from the operation of general principles; but of thofe alfo which originate

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in the partial or perverted effect of a particular law. He will be guided, in the motions which he brings forward, by his opinion of their usefulness or necessity. He will regard the applause which he may receive, or the odium which he may incur, no further than as the one may contribute to promote, or the other to impede, his power of rendering future services to his country and to mankind. He will not shrink from proposing the restraint or the surrender even of one of the privileges of his own order, if its continuance in its present extent, or its continuance at all, appears in his opinion inconsistent with the public good. Whatever measures he may suggest, he will accommodate them, as far as reason and the nature of the intended object will admit, to the sentiments of those on whose concurrence their success may depend; and will strive to frame his proceedings in such a manner as may ensure to him, if he should fail to attain the end which he principally desires, the accomplishment of that which is next to it in point of eligibility. He will not aim at taking the lead where he can be of more essential use by giving subordinate assistance; nor en-

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danger the reception of a plan by expofing it to the effect of prejudices, which might lie againft himfelf as the introducer of it.

In appreciating the meafures introduced by others, he will be actuated by motives no lefs pure and confcientious. He will warmly fupport fuch as he deems laudable and ufeful, and ftrenuoufly refift thofe of the contrary defcription, whether brought forward by Miniftry or by their opponents, whether proceeding from a popular or from an unpopular fide of the Houfe. He will not fuffer his conduct refpecting private Bills to be determined by perfonal favour and perfonal folicitation; nor, if he is himfelf interefted in the fate of the inclofure, the canal, or the turnpike road, will he refort to thofe improper modes of influence, or act on thofe felfifh motives, which he would have difapproved, had he been an unconcerned fpectator of the conteft. He will not concur in augmenting the public revenue by means of laws which are oppreffive or unfair in their operation. He will not fill the treafury (*c*) at the expence of national virtue. In deciding

(*c*) On this ground Lotteries appear highly objectionable;

deciding on the conduct of the executive officers of the Crown, he will be guided neither by hopes nor by fears, by attachment nor by averſion. He will diſcountenance the prevailing maxim of eſtimating the merit of their operations by the event; not merely becauſe the wiſeſt plans may be diſconcerted by accidents, and the moſt inconſiderate crowned with undeſerved ſucceſs; but becauſe the moſt politic and beneficial end may have been ob-

able; and all Bills which render perjury more frequent by the multiplication of unneceſſary or improper oaths; or which encourage ſmuggling, and oppreſs the honeſt trader, by impoſing high duties on commerce or manufactures, in caſes where fraud is eaſy and obvious. Among the advantages of freeing trade from all needleſs reſtrictions, the number of oaths ſaved is perhaps the moſt important. The ſcandalous violation and evaſions of oaths taken at the Cuſtom Houſe can ſcarcely be deſcribed. And it may not be improper here to add, that the total diſregard ſhewn by Churchwardens to parts of their oath, the injunctions of which will never be obeyed in the preſent ſtate of manners and ſociety, loudly demands the interpoſition of the Legiſlature. In the ſucceſſive execution of this office, almoſt every man above the rank of a day-labourer in every pariſh of the kingdom learns to conſider the ſtrongeſt ſanction of truth as a nugatory form. Let the effects, both in a civil and religious point of view, be eſtimated by thoſe who have it in their power to remove the cauſe.

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tained by means which in the judgement of honeft men fhould confign the agent to infamy. From the fame fcrupulous regard to the general interefts of morality, he will be invariably folicitous, while he gives to Minifters that degree of confidence which he deems their fituation to require, to have each of their proceedings with foreign powers brought as early and as diftinctly before the public eye as the national fafety will permit. Minifters have the common infirmities and the common feelings of men. Thofe who are actuated by the moft commendable motives will be more on their guard againft the failings to which even the beft men are liable, when they know that their whole conduct is clofely infpected. Thofe who are proof againft the fecret calls of virtue may be reftrained by the fear of detection. It is the dufk of evening, or the obfcurity of folitude, which fends forth the petty plunderer to his depredations; and guilt acts on the fame principle in all claffes of fociety.

When a confcientious member of the Houfe of Lords engages in parliamentary debate, he will advance no arguments in fupport of his opinion,

opinion, but thofe which fincerity juftifies him in maintaining. He will not conceive himfelf univerfally bound to produce thofe reafons which have the ftrongeft influence on his own mind, if he apprehends that they would fo far fhock the prejudices of others as to endanger the fuccefs of the meafure propofed, or that the avowal of them would involve the difclofure of political circumftances, which for the fake of public good ought at the moment to be kept fecret. But he will not urge the adoption of it without either alleging fuch grounds as in his own judgement render it advifable; or fuch as he thinks render it advifable on the principles prevalent with thofe whom he addreffes. In the latter cafe, however, he will not delude his hearers by giving them caufe to believe that the reafons which he brings forward are thofe on which his own determination relies. He will contend with the candour and opennefs of a man anxious for the difcovery of truth and the promotion of general good; and will confcientioufly avoid the artifices and exaggerations, which belong to the interefted defender of a favourite fcheme. He will avail himfelf of all fit opportunities of

avowing

avowing without obtrufion the (*d*) general principles which he holds on the fubject under difcuffion, when it is a fubject of moment, or on others nearly allied to it. He will give every degree of reafonable weight to the arguments, and of reafonable credit to the motives, of his opponents. He will check in himfelf, and ftudy to reprefs in others, every ebullition of party fpirit; and will habituate himfelf to cenfure without acrimony, to refute without lofs of temper, and to

(*d*) Such an avowal is productive of the moft beneficial confequences, both immediately and in the way of example. It tends to lead the fpeaker and the auditors to confider fubjects on an enlarged and comprehenfive fcale, and to a certain degree detached from the prejudices and circumftances of the moment. By exciting attention to fundamental principles, it places their excellence, if they are juft, in a clearer light; if falfe, it obviates the danger of men being furprifed into a compliance with them. It likewife gives that publicity to the character and tenets of a Legiflator, which affords the greateft fatisfaction to his country, and has the beft effects upon himfelf. Few circumftances have a more reafonable tendency ultimately to deprive perfons in political life of public confidence, than their fuffering themfelves to be led by the heat of conteft or the preffure of difficulties to fpeak lightly of general principles, and to profefs to be guided entirely or chiefly by the incidents of the moment.

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feel himſelf victorious without pride or oſtentation. He will not be aſhamed to retract with manlineſs what he has erroneouſly aſſerted; to acknowledge any change which further thought and information may have wrought in his views, either of the meaſure which he had countenanced, or of the diſtinct grounds on which he had conceived its propriety to be eſtabliſhed; and will not be deterred, by the fear of being reproached as inconſiſtent, from confeſſing that he was leſs wiſe yeſterday than he is to-day.

A conſiderate Nobleman will make a very ſparing and cautious uſe of his privilege of voting in his abſence by proxy; and will be ſcrupulous in receiving the proxy of another Peer. Indeed, the idea of a perſon giving his vote in the deciſion of a queſtion which he has not heard debated, and may never have conſidered; in enacting or rejecting a Bill with the nature and object of which he is unacquainted; at a time too perhaps when he is in another quarter of the globe, and unable to learn the preſent poſture of affairs and circumſtances either at home or in the reſt of Europe;

rope; is ſo plainly repugnant to common ſenſe; is capable of being ſo eaſily and groſsly perverted to the manœuvres of private intereſt or of party; and ſo nearly reſembles the Popiſh plan of putting one man's conſcience into the hands of another; that the ſurrender of this privilege would apparently be at once honourable to the Houſe of Lords, and beneficial to the Nation.

It has long been the practice of the Houſe of Lords to be guided in pronouncing judgement in caſes of appeals by the opinion of a few Peers eminent for their knowledge in the law. To the learning, experience, and integrity of Noblemen ſo circumſtanced peculiar deference is unqueſtionably due; yet it ſeems to be carried beyond its proper bounds, when it permits the ſilent riſe and progreſs of an opinion, that a Peer not belonging to that profeſſion, who ſhall take an active part in ſuch deliberations, overſteps the limits of his province. It appears highly deſirable that a conſiderable number of Noblemen ſhould be qualified by an acquaintance with the general grounds and principles of evidence, and a par-

ticular ſtudy of thoſe branches of the legal code moſt frequently involved in the diſquiſitions which come before the Houſe, to appreciate with accuracy the ſeveral arguments of the Counſel at their Bar, of their own profeſſional Members, and of the Judges ſummoned to aſſiſt them. By theſe means, not only the collective maſs of wiſdom exerciſed in the deciſion would be enlarged ; but additional ſecurity would be obtained againſt thoſe miſapplications and abuſes, to which power, when lodged in the pureſt hands, may ſooner or later be ſeduced, if it ſhall ceaſe to meet with ſuperintendence and control.

Such are the public duties of Peers in general. On thoſe of particular deſcriptions peculiar obligations are incumbent. Propoſals for the improvement of the Marine come with ſingular propriety from the ennobled Admiral. The cauſe of the Soldier is beſt pleaded by the Commander, who has earned his ſeat in the Upper Houſe by military ſervices. Amendments in the civil, criminal, and judicial ſyſtem are chiefly expected, and moſt favourably received, from the dignified Lumi-

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naries of the Bar. And to thofe who are elevated at once to pre-eminence in religious functions, and to the privileges of Peerage, the Nation will look for plans for the elucidation of the fcriptures, the amendment of morals, and the fuppreffion of feminaries of vice; for the eftablifhment of new inftitutions for the inftruction of the poor, and the improvement of thofe already exifting for the rich; more efpecially as far as they involve the education of perfons deftined for the clerical profeffion.

II. A few obfervations on the duties of Peers in private life remain to be fubjoined.

While the Nobleman guards for his own fake againft thofe temptations to overbearing manners, and an oftentatious mode of living, to which his elevated rank, and the ample property which commonly attends that rank, render him particularly expofed; and more efpecially againft fuch of thofe temptations as derive an acceffion of force from his own temper and turn of mind, or from any adventitious circumftances; let him

conſtantly recollect the power which he poſſeſſes of influencing the conduct and manners of others. Next to the example of perſons allied to the Monarch on the throne, that of the Peer is the moſt alluring and efficacious. It diffuſes its effects not merely among thoſe who are admitted to his ſociety and to his table; but is propagated from one knot of imitators to another, and ſpreads through the adjoining country far and wide. The pattern which he exhibits has a prevailing influence in deciding whether vanity and pride ſhall be deemed honourable, or diſgraceful; whether the tide of extravagance, luxury and diſſipation ſhall be quickened, or retarded; whether uſeful plans and inſtitutions ſhall meet with countenance, or neglect; whether induſtry, morality and religion ſhall flouriſh, or decline; whether unaſſuming merit ſhall be encouraged, or its recompenſe be intercepted by ſhameleſs ignorance, and accommodating, perhaps brilliant, vice. Viewing all his own proceedings in this light, let him be careful, and not for his own ſake only but for the ſake alſo of ſociety, that the influence of religion be not diminiſhed by his example; and diminiſhed it will

will be, if he is negligent and irregular in his attendance on public worſhip; if he employs the ſabbath in needleſs journies, or ſurrenders it without urgent neceſſity to the hurry of viſits abroad, or of company at home; much more if he abets the growing faſhion, a faſhion unknown till of late in this country, *(e)* of giving up its evenings to routs and muſical entertainments. If he thinks proper to have a clergyman reſide in his family, either as chaplain, or in any other capacity; let the perſon

(*e*) The modern concerts termed *ſacred* appear by no means to deſerve an exception. If they conſiſt, as is ſaid not unfrequently to be the caſe, of common muſic interſperſed for the ſake of decorum with a ſparing mixture of ſacred performances, the intention and the effect of them are equally obvious. And ſuppoſing them to be really and altogether what they profeſs to be, they will in few caſes excite religious impreſſions ſufficiently ſtrong to repay the hearers for the interruption of thoſe Sunday evening occupations, which might otherwiſe have taken place at home; while the ſervants of all the parties, inſtead of being left at leiſure for religious employments, are occupied preciſely as on a common viſiting day. And the lower claſſes of the people, who do not make refined diſtinctions, will conceive their ſuperiors to be in purſuit of their amuſements on the Sunday as during the reſt of the week; and will thence learn to indulge themſelves without ſcruple in their own.

be ſelected for qualities which befit a miniſter of the goſpel, and be treated uniformly in a manner becoming his profeſſion. Let the Nobleman avoid all culpable facility in the exerciſe of his right of nominating chaplains; and when he beſtows the title, whether as a mark of his favour or as a ſtep to preferment, let him be careful that it be conferred only on ſuch men, as he ought to diſtinguiſh by his countenance, or contribute to promote. Let his mode of life, while ſuited to his place in ſociety, be under the control of an unfeigned ſpirit of moderation. Let him chaſe away the ſwarm of ſervile *hangers-on*, who delight to baſk in the ſunſhine of Nobility, and to faſten on rich and powerful patrons; who ſearch out the weak ſide of the man by whoſe bounty they are fed; and, inwardly deſpiſing while they would be thought to adore him, are ready to flatter his defects, to applaud his abſurdities, to miniſter to his vices, to ſubmit to the moſt ignominious and diſguſting offices and compliances, in the hope of being rewarded with civil, military, or eccleſiaſtical preferment. Shunning the contagion of ſuch aſſociates, let him cultivate a familiar intercourſe with men,

from

from whom he may derive knowledge and information which may enable him to act with greater ufefulnefs in his public capacity as a Legiflator. The fame pattern which from confcientious motives the mafter of the family difplays in his own behaviour, habits, and purfuits, he will affiduoufly imprefs on every member of it. Not only in the common courfe of his proceedings, but even during the urgency of political occupations, let him confider the bofom of his family as defigned to be the fcene of his pureft delights; and fet his face againft the prefent fyftem of modifh life, which renders the wife and the hufband as it were ftrangers to each other. Separate habits, feparate eftablifhments, feparate fets of acquaintance, gradually lead to feparate purfuits, inclinations, and interefts. The ties of domeftic intercourfe are broken; connubial affection declines; principle may remain, but fondnefs is gone; and when indifference or difguft has taken the place of fondnefs, principle has loft one of its moft powerful collateral fupports. Nor is this all. Parental regard decays, and parental duties are forgotten: the children, committed to uninfpected teachers, hear little

little from either parent but cenſures of the other, and thus are trained in the habit of deſpiſing both; and learn betimes to conſider the marriage ſtate as a ſtate of vexation, or at leaſt as one in which the permanence of mutual love would be thought of by none but thoſe who are ignorant of the world. Theſe evils are not confined to the Nobility; they extend to Commoners who move in the ſame faſhionable circle. They are noticed in this place, partly becauſe they attach chiefly on the Nobility; and partly becauſe the influence of perſons in that claſs is peculiarly adapted either to encourage or to check their progreſs. In the partner of his honours and of his influence the Nobleman will find, or he will ſtrive to create, a partner of his laudable views in domeſtic life, and an aſſiſtant in carrying them into effect. He will inſpire his children from their earlieſt youth with a love for the ſame virtuous principles which guide his own actions; and by a judicious choice and ſolicitous obſervance of the inſtructors to whom the care of their education is committed, and by a truly paternal attention to their conduct when firſt introduced into the world, will train them in

thoſe ſtudies, and lead them betimes to thoſe attainments, which may qualify them to fill their deſtined ſtations in ſociety with advantage to their country, and inward ſatisfaction to themſelves.

CHAP.

CHAP. VI.

ON THE DUTIES OF MEMBERS OF THE HOUSE OF COMMONS.

THE principle of Repreſentation, though too obvious to have been altogether overlooked by the Republics of antiquity; and though occaſionally adopted by them (*a*) in their tranſactions with each other as independent communities; does not appear to have been eſtabliſhed as a part of their internal Conſtitution. In the infancy of their power, the ſmallneſs of the number of citizens, and the contiguity of habitation eſſential to their ſecurity, enabled them to collect together for public deliberation without inconvenience. In proceſs of time, when, from the increaſe of population and the extenſion of territory, the maſs of freemen ſwelled to a larger and a ſtill larger ſize; when the confuſion, the prejudices, the venality, the

(*a*) As in the Council of the Amphyctyons.

raſhneſs,

raſhneſs, the ſudden panics, and the frantic tumults, incident to democratic aſſemblies, joined to the interruption of induſtry, the ſtagnation of commerce, the jarring of private animoſities, and the fury of civil broils, ſhook the ſtate to its foundations; it would have been fruitleſs for any patriot, however conſcious of the rapid and alarming progreſs of the poiſon, to have propoſed the genuine antidote. The man who had dared to exhort the turbulent multitudes abſorbed in the proſecution of political conteſts, and exulting in the daily exerciſe of legiſlative power, to diveſt themſelves of their authority, and commit it to the hands of deputed repreſentatives, would either have been torn in pieces by their haſty rage; or would have eſcaped their immediate vengeance only to have been driven by oſtraciſm into perpetual exile, or to have been hurled from the Tarpeian rock.

But in England, when the commonalty, during the contentions of the Sovereign with the Barons, and the conflicts of rival pretenders to the Throne, had gradually acquired ſuch weight in the national ſcale, as to aſſert a con-

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ſtitutional right of forming an independent branch of the Legiſlature; the ſituation of the people was almoſt entirely oppoſite to that of the Citizens of Athens and of Rome. A long courſe of royal and ariſtocratic oppreſſion had ſuperſeded the convocation, and perhaps extinguiſhed the memory, of thoſe general aſſemblies of the Nation, which appear anciently to have been eſtabliſhed in this country as well as in the other (*b*) parts of Europe by the victorious invaders of the Roman Empire. The principle of repreſentation therefore had not to contend with the violence of popular prejudice and ambition. And the operation of a particular cauſe inſured its introduction and eſtabliſhment. The influence which had been gained by the commonalty was not an influence equally diſtributed among the people at large; but was principally if not excluſively

(*b*) See the account given by Dr. Robertſon of the annual aſſemblies of the French, denominated from the place and time of the meeting "Les Champs de Mars & "de Mai," and of the correſponding aſſemblies of the Germans, and of "*all* the barbarous Nations" of Europe. Hiſtory of Charles the Fifth, vol. i. p. 432, 433; 197; 463.

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concentred in thofe detached bodies of individuals, who were collected in cities and towns. Thefe attracting the notice of the Monarch, partly by their wealth, partly by their union and collective ftrength, eafily obtained in fucceffion the privilege of fending deputies to meet him in his Parliament, both to defend the interefts of their conftituents, and to co-operate in making laws for the Nation.

The grand object to be purfued in forming a Reprefentative Affembly is, to provide that it fhall have an identity of intereft with its conftituents, and fhall exprefs their general and deliberate fenfe of public meafures. On the obfervance in a due degree of thefe effential and vital principles, the utility of the Houfe of Commons, as a body of Reprefentatives of the People of England, radically depends. To fecure or to revive the purity and vigour of thefe principles is the deftined object of the periodical recurrence of elections; of the royal prerogative of diffolving Parliament at any time, of Bills for the exclufion of placemen, penfioners, and contractors from feats in the Houfe of Commons, and of certain claffes

of

of men, as officers of excife, from the rights of electors; and has been the profeffed defign of all the plans which have been propofed for parliamentary reform. And the great purpofes of the Reprefentative inftitution have been alike abandoned, when the Houfe of Commons has been induced tamely to furrender the rights which it was deputed to maintain; and when it has affumed powers to itfelf committed to the other branches of the Legiflature. They were alike abandoned when it affigned to the proclamations of Henry the Eighth the validity of laws; and when it extorted from Charles the Firft the privilege of not being diffolved without its own confent.

Our immediate concern is with the duties of individual Members of Parliament. The proper difcharge of them however fo clofely depends on a thorough knowledge of the leading conftitutional purpofes which the Houfe of Commons is formed to anfwer; that a fummary account of thofe purpofes, far from being foreign to the prefent plan, feems neceffary to render it ufeful.

1. The

1. The equilibrium of the Conſtitution under which we live, like that of the frame of the planet on which we dwell, is preſerved by the reciprocal action and counteraction of its component parts. Were either of the elementary branches of the Legiſlature to invade the rights of the others, it would experience a determined reſiſtance from their combined and countervailing exertions. The Houſe of Commons, by a ſuitable exerciſe of the powers with which it is inveſted, performs its part in the important office of ſupporting the balance of the Conſtitution. The peculiar ſervice required of it is to communicate and carry into effect the national will; and induſtriouſly to repel every attack, whether open or diſguiſed, which may be directed againſt public liberty. The mode in which it repels encroachments, either of the Crown or of the Houſe of Lords, on the rights of the People, varies according to the circumſtances of the caſe and of the times. When emergences have required open reſiſtance, the Houſe of Commons has not ſhewn itſelf diſpoſed to ſhrink from actual conteſt. But, in the common train of events, it effectually ſecures the object in queſtion by the leſs irritating, and therefore the more ſalutary,

 method

method of ſilently ſupporting its own privileges, and exerciſing without interruption or abatement all its cuſtomary functions. And when engaged in the conſtitutional defence of popular freedom, it is equally a bulwark to the Sovereign and to the Peerage. For, by precluding thoſe branches of the Legiſlature from attaining to exorbitant authority, it prevents the danger which each would incur from the predominance of the other; and will in moſt caſes give timely aid to the weaker party, leſt it ſhould itſelf have to encounter in the victor a formidable aſſailant of its own rights, armed with a double ſhare of power, and fluſhed with recent ſucceſs.

2. The inſtitution of a Houſe of Commons enſures almoſt to every inhabitant of the realm an opportunity of making known his grievances to a tribunal, which is competent to provide for their redreſs. If the evil of which he complains be real, and of any conſiderable magnitude in the general eſtimation; whether it ariſes from the abſence, from the inefficiency, or from the abuſe of poſitive law; it is nearly certain that ſome Member of Parliament will be influenced either by laudable or by reprehenſible

henſible motives, by the impulſe of duty, of benevolence, of compaſſion, of patriotiſm; or by ſelfiſhneſs, by reſentment, by vanity, by party ſpirit, or even by the mere inquietude of a buſy diſpoſition, to bring it forward into public notice. It is true, that the other Houſe of Parliament alſo is open to the petitions of the ſubject. But the cloſe connection which ſubſiſts between the Houſe of Commons and the People, and the intercourſe which the members maintain directly with their immediate conſtituents, and indirectly with thoſe who are not electors through the medium of thoſe who are, gives a peculiar facility of acceſs to the repreſentations of private individuals, and a peculiar proſpect of their being as powerfully ſupported as they deſerve.

3. This branch of the Legiſlature alſo furniſhes the means of patient and ſafe diſcuſſion of political grievances and popular diſcontents, before they are grown to ſuch a magnitude as neither to be tolerated with ſafety to the State, nor removed without the riſk of dangerous convulſions. The beneficial effects of a Repreſentative Houſe of Commons in

this point of view are not to be defcribed. In Defpotic Governments, from the want of fimilar inftitutions, the fmothered embers accumulate heat in fecret, until they burft into a general flame; the People, impatient at length of enduring the wrongs over which they have long brooded in filent indignation, feek redrefs by open rebellion, as the only method by which they can hope to obtain it. In the ancient Democratic States, in which the principle of reprefentation was not adopted, endeavours to redrefs glaring defects in the Conftitution were ufually productive of ferments, tumults, and factious diforders, which rendered the attempt abortive, or terminated in hafty and impolitic refolves. But in Great Britain, the Houfe of Commons ferves as a conductor to draw off the lightning by a noifelefs and conftant difcharge; inftead of fuffering it to collect until the cloud becomes incapable of containing it, and by an inftantaneous flafh to level to the ground a fabric, which ages had been employed in erecting.

In this refpect, as in others already mentioned, the Houfe of Commons deferves to be

confidered

confidered as a peculiar fafeguard to all ranks of fociety; to the King, and to individuals and bodies of men diftinguifhed by fuperior dignity or wealth, by obviating the probability of times of confufion in which they have the moft to lofe; to the commonalty, by preventing thofe civil commotions which, when once they have arifen, however fmall may have been their beginnings, often continue to rage with increafing fury after the original caufe of them has difappeared, or has ceafed to be deemed important; until focial order is fubverted, commerce and manufactures are deftroyed, the country is deluged with blood, and the conteft ends in anarchy or defpotifm.

4. The Houfe of Commons is a ftanding tribunal, before which the Executive Minifters of the Crown are conftantly queftioned and called to a ftrict account by able and ever-watchful opponents. Their meafures are ufually fcrutinized in the outfet, before there can have been time for them, however ruinous in their tendency, to have produced very alarming effects. The certainty of unremitted attacks from adverfaries too acute to lofe any

advantage, and too inveterate to give quarter if ſucceſsful, contributes to deter Miniſters, by motives of perſonal conſideration, from embarking in pernicious or hazardous ſchemes; and eſpecially from unneceſſarily involving their country in wars, which furniſh peculiar opportunities of enquiry and accuſation to their antagoniſts, at a time when their own powers of defence are crippled by the reſerve with which they are obliged to ſpeak on the ſtate of public affairs, and projected military operations. The ſame motives will incline them to terminate the conteſt whenever reaſonable conditions of peace can be obtained. Thus happily does the inſtitution of the Houſe of Commons abate the fury, both at home and among foreign nations, of the ſevereſt ſcourge of the human race.

Nor is the force of this commanding ſuperintendence confined to the leading Members of Adminiſtration. The Judges, the Officers of the Army and Navy, in a word, all who occupy poſts in any department of the State, are conſcious that, perhaps before another day paſſes, their conduct may be brought under parlia-

parliamentary discussion, and probed in its most minute and tender parts. This rigorous inquisition will be dreaded, even in those cases in which the House of Commons has not the right of following it by the infliction of punishment.

To these benefits may be added other analogous advantages. The Members who are not invested with official employments are stimulated to exert to the utmost their several talents, and to contend in acts of disinterestedness and patriotism, not only by being witnesses of the conduct of each other, but by the recollection that they are performing their part on a public stage, as it were before the eyes and within the hearing of the whole Nation. Latent powers are called forth; scope is afforded for the exercise of abilities of every kind; the way to the highest political eminence is open to all who are worthy of attaining to it, though undistinguished by personal wealth or rank, though originally unsupported by powerful connections. The House of Commons too, by receiving into its bosom persons of every profession, confers honour on

all liberal occupations; and deſtroys that odious and degrading barrier which in deſpotic countries keeps aſunder the different claſſes of ſociety. By admitting the Merchant, it ennobles trade; by giving acceſs to the Soldier, it fixes and retains him a Citizen.

5. Among the moſt important ſervices of the Houſe of Commons may be reckoned the influence which it has in forming the national character. By the active diſcharge of the functions entruſted to it by the Conſtitution, and by the publicity of its debates, it diffuſes a ſpirit of political enquiry; turns the general attention from frivolous employments to rational and manly purſuits; and teaches the people of Great Britain to inſpect, and to judge of, public meaſures, to know, to value, and to defend their rights.

The conciliating intercourſe which periodically takes place at elections between the candidates and their conſtituents, together with the connection which continues to ſubſiſt between the Members of Parliament and thoſe whom they repreſent, and between affluent men

men not in Parliament, and the electors with whom they wiſh to have weight, corrects the prejudices, and alleviates the incidental vexations and evils, which will unavoidably reſult from the diſtinction of ranks in the community. The poor indulge the elating idea of political importance; and the rich feel themſelves obliged to ſolicit and to receive the poſſeſſion of their darling object at the hand of their dependents. It is to the want of an intimate and neceſſarily recurring communication between the higher and lower orders of ſociety, and of a reciprocal ſenſe of obligations conferred and received, that we are to aſcribe the overweening pride of the Nobles in many of the kingdoms on the Continent, and the abject humiliation of their vaſſals. None perhaps but they who have been eye-witneſſes can duly eſtimate the effect wrought on the human mind by an uninterrupted conſciouſneſs of dignity, power, and wealth; or by an unvaried ſenſe of poverty, weakneſs, and depreſſion.

Such are the honourable and uſeful offices in which every Member of the Houſe of Commons bears a part. We are now to examine

how he may moſt faithfully and effectually diſcharge the duties which they impoſe on him.

The ſubjects which come before the Houſe of Commons have ſo cloſe a reſemblance to thoſe which are debated in the Houſe of Peers (the bills and motions ſubmitted in their turn to the conſideration of both Houſes being in moſt inſtances nearly or identically the ſame), that the previous attainments and the general line of conduct which ought to be purſued by the Peer are almoſt without exception eſſential to the popular Repreſentative. An accurate knowledge of the natural rights of men and the juſt foundations of civil government; of the Britiſh Conſtitution; of the principles of finance and of commerce; of foreign politics and connections; and of internal police; patient induſtry, inflexible integrity, abhorrence of party ſpirit, watchfulneſs againſt the allurements likely to produce it; care to guard againſt prejudices; together with an earneſt zeal to promote the good of this country and of mankind by public exertions and private example; theſe are qualifications which ought

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to charaєterife the Legiflator, whether placed in the Upper or in the Lower Houfe. It muft however be admitted, that a more profound knowledge of feveral of the fubjects mentioned above may in general be expected with reafon from individual Peers, than from individual Members of the Houfe of Commons. The Peer will ufually have been educated with a view to his ftation; the Member of the Lower Houfe may not. The former enjoys a permanent and certain, the latter a temporary and precarious, feat in the Legiflature. The former is feldom engaged in any profeffion: the latter frequently. The former is not called upon, as the latter is, to devote his time and attention to the particular interefts of Conftituents; nor to involve himfelf in the protracted enquiries and patient difcuffions which neceffarily take place upon their private Bills even before they are brought into Parliament. On the other hand, as the popular Reprefentative is introduced by his habits of life to an acquaintance with trade, manufactures, and various objects of local and municipal concern, which are by no means fo familiar to the Peer; a more accurate infight into thefe topics may fitly be required

quired from an individual placed in the Lower Houſe, than might have been incumbent on him had he been fixed in the Upper.

Referring then the reader to the obſervations already made in the preceding chapter on thoſe ſubjects which appertain both to the Peer and to the Member of the Houſe of Commons, I proceed to ſome particular topics which excluſively belong to the preſent enquiry; and after adverting to the duties of an individual who aſpires to a ſeat in Parliament, ſhall ſubjoin a few brief remarks on the peculiar obligations incumbent on him when elected.

It is the firſt duty of every man who cheriſhes a wiſh to be deputed as one of the Repreſentatives of the People of Great Britain, to conſider whether he actually and fairly poſſeſſes that pecuniary qualification which the law requires. It is well known that evaſive methods are ſometimes practiſed to ſatisfy the letter of the law on the ſubject, while they are directly contrary to its ſpirit and intention. And they are commonly palliated on the plea that the law in queſtion is impolitic; and that

to carry it according to its real purport into execution, would be to exclude from ſeats in the Houſe of Commons men of great abilities and ſlender fortunes, who might otherwiſe have exerted their talents in Parliament with the higheſt advantage to their country. To enquire whether the law is on the whole impolitic or not, falls not within the plan of the preſent work. But what if this impolicy were admitted? Is a Britiſh ſubject at liberty to diſregard and evade a law, merely becauſe he deems it, or knows it to be generally deemed, inexpedient? Let him take, if he thinks fit, according to his ſtation, conſtitutional means to procure its repeal; but while it remains a law, let him fulfil the firſt obligation of a ſubject, and ſet an example of ſcrupulous and punctual obedience.

If he is duly qualified according to the ſpirit of the Act of Parliament, let him in the next place ſeriouſly and impartially inveſtigate the motives by which he is incited to become a candidate for a ſeat in the Houſe. If he is impelled by a deſire to gratify ambition, pride, or envy, or to promote his private intereſt at the

the expence of the public good; let him eradicate from his breaſt the unchriſtian principle, before he indulges a thought of further perſeverance in his deſign. If his motives are ſufficiently pure to ſtand the teſt of ſelf-examination, let him in the next place conſider and appreciate the effects, whether beneficial or injurious, whether limited to himſelf or reaching to others, which are likely to reſult from his declaring himſelf a candidate. Let him eſtimate on the one hand the ſervices which he may reaſonably hope to render to his country and to the human race by the acquiſition of legiſlative power, and by enlarged opportunities of promoting religion, learning and ſcience, of preventing injuſtice, of diſcovering and relieving diſtreſs, and of improving the manners and morals of others by the influence of a more conſpicuous and more weighty example. On the other hand let him fairly deliberate, whether by offering himſelf he is not excluding another, who might be expected to diſcharge the office of Member of Parliament with more ability and advantage. Let him not think lightly of the pain and detriment which he may occaſion to his opponent, par-

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ticularly if that opponent be the late repre-ſentative. Let him recollect the expence, the diſcord, the tumults, the intemperance, the profligacy, to which a conteſted election almoſt always, and an undiſputed election not unfrequently, gives birth; the riſk to which he ſhall be expoſed of yielding to the various temptations of the hour, eſpecially if the ſtruggle ſhould be protracted, and the event grow more and more ambiguous; the danger of becoming inveterate and uncharitable towards his competitor; of being ſoured by defeat; or of finding himſelf or his family expoſed, in caſe of oppoſition, to more formidable trials by ſucceſs and a conſequent new line of life.

If, on drawing the balance between the probable good and evil, the preponderance of the former ſhould be ſuch as to juſtify a conſcientious man in ſtepping forward as a candidate; he will ſteadily reſolve, if he be conſiderately conſcientious, to watch his heart and his actions with the ſcrupulous care which ſo trying a ſituation requires; and to avail himſelf of no ſiniſter means to promote his ſuc-ceſs,

cefs. In his declarations to the electors, whether they appear in the fhape of circular advertifements or of canvaffing letters, of private difcourfe or of public harangues, he will fcorn the infincere and oftentatious parade of unparalleled zeal for the general welfare, and of extravagant attachment to their particular interefts. He will follow the dictates of honefty, and be content with the language of truth. He will conform to the intention of every law actually in force refpecting elections. He will enter into no clandeftine engagements contrary to the fpirit, though not perhaps within the letter, of exifting ftatutes. He will not directly or indirectly angle for fuffrages by holding out unwarrantable baits to the voters; nor, while he profeffes to offer himfelf to their free choice, will he feek to overawe them by menaces and intimidation. He will not employ a number of fuperfluous agents, for the purpofe of thus gaining by indirect bribery the votes and intereft of the perfons employed. Whatever he would not openly do himfelf, he will not do in fecret or through the medium of his friends. Subterfuges and concealment imply the confcioufnefs of guilt. Neither will he fanction by

by connivance (*c*) any indefenſible proceedings of his adherents on his behalf. On the contrary, he will previouſly ſettle with his ſupporters and agents the principles on which the election is to be conducted; and will give it in charge to them, if ſuch injunctions appear neceſſary, to abſtain from all unjuſtifiable artifices, by which they may have been accuſtomed to forward the intereſt of their favourite candidate. He will explicitly make known to them his determination neither to fulfil any engagements, nor repay any diſburſements, of an improper nature, which may be incurred by them; and after the election, if occaſion ſhould require, he will prove his own ſincerity, and diſcourage future committees from venturing

(*c*) In elections for boroughs, ſome of the conſtituents have been known to make a trifling nominal ſubſcription, under cover of which much illegal treating is carried on; while the ſubſcription paper is to be produced, if circumſtances ſhould require that ſtep, as evidence to the Houſe of Commons that the candidate had no concern in the entertainments. It is highly neceſſary that he ſhould forbid ſuch practices from the beginning; as his committee will generally act juſt as they think expedient for his intereſts, and give him no information of their tranſactions until the whole buſineſs is concluded.

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on misconduct, by resolutely persisting in his purpose. He will avail himself of no unfair or ungenerous advantages over his opponent; he will discountenance every kind of tumult or riot; every thing that partakes of calumny, of illiberality, or of rancour. He will endeavour, not from private motives alone, but on the general grounds of public good, to keep down the expences of both parties during the election. He will not prolong the contest a moment for the sake of harassing his antagonist: and if at any period of it, circumstances themselves, or his views of circumstances, should be so far changed as to convince him that duty requires him to desist; he will not hesitate to relinquish the most flattering prospects, or even the absolute certainty of success.

The temptations incident to candidates in general frequently become stronger and more numerous in the case of him, who, uniting his interest with that of another candidate, proceeds hand in hand with him in the common cause. Should ignorance, or thoughtlessness, or want of principle lead the one to

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act in any respect amiss; the example presents itself in a garb particularly ensnaring to the other. He is urged to acquiesce in it, if not by the direct solicitations of the friends of his associate, or by those of his associate himself, yet by motives of personal advantage; by diffidence and timidity; and by false delicacy towards his colleague, and an unwillingness to do any thing which may seem to imply a censure on the conduct, or may be likely to prejudice the interest, of the person with whom he has entered into confederation. Let every candidate beware of entering into partnership with another, whose principles respecting the moral duties to be practised at elections differ from his own. Let every one remember that a clear explanation, at the outset of such a partnership, of his own opinions and resolutions is among the best methods of guarding himself against the danger of unwarrantable compliances; and also of refuting the charge of deserting the cause of his associate, if he should be called upon for concurrence and support which it would be criminal to give, or should honestly declare his objections

to exifting practices, when he could not innocently fhut his eyes and remain filent.

The candidate who fhall aftonifh his friends and his enemies by practifing the rules of uprightnefs and plain dealing towards both, muft prepare himfelf to hear his ignorance of the world lamented by the one and derided by the other. It is very poffible that his fincerity may coft him a number of votes: and for this lofs his mind ought to be prepared. It is poffible too that it may procure him an acceffion of independent and zealous friends. If united with judgement it will rarely prove the caufe of his defeat, except in abfolutely venal boroughs; though it will almoft always be reprefented as fuch by thofe who are hackneyed in the manœuvres of elections. At all events, it is better to act confcientioufly and lofe the day, than to gain it by acting otherwife. The main bufinefs of every man is to obtain the approbation of his Maker. To this end it is neceffary that in all his conduct he fhould be pure, upright, and fincere: it is not neceffary that he fhould be a Member of the Houfe of Commons.

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When the conteſt is terminated, on whatever ſide the victory may have fallen, he will ſtrive to moderate, and, if it be practicable, to extinguiſh in his adherents that virulent ſpirit of party, which, however frequently it may infect the candidate himſelf, generally rages with more bitterneſs in the boſom of his friends. He will teach them by his own example, that every degree of warmth ſhould ſubſide when the colliſion which produced it is at an end; and he will uſe the moſt ſtrenuous and unremitting efforts to diſarm the reſentment which they may be diſpoſed to entertain againſt their inferiors and dependents, who have exerciſed in ſupport of the oppoſite intereſt a right which the Conſtitution has entruſted to their own diſcretion. And he will alſo beware that no local cuſtom, no inadvertence on his part, no perſuaſion on the part of others, lead him to remunerate his voters, whether by entertainments, by diſtributing (*d*) money, or in any other

(*d*) The cuſtom of giving money to the voters, after the time for preſenting petitions againſt the return of Members is elapſed, prevails in ſome boroughs. In ſome, money is given to each individual voter: in others, the candidate, after paying the ordinary expences is directed to give

other way, which he conceives to be contrary to the ſpirit and actual intention of the laws.

In the preceding remarks the caſe of conteſted elections has been particularly held in view; as moſt fertile in temptations, and conſequently demanding the greateſt exertions of judgement and virtue. But in every election there is ample room for the exerciſe of conſcientious deliberation; and for the application in a greater or in a leſs degree of moſt of the hints which have been ſuggeſted.

There is indeed one ſpecies of election to which many of theſe hints are inapplicable; if that is to be called an election, from which every idea of free choice is excluded. I allude to the practice of purchaſing a ſeat in Parliament at a ſtipulated price, from ſome one, who is either, in the cuſtomary phraſe, the proprie-

give perhaps five hundred pounds to a certain perſon, and to aſk no queſtions about the diſtribution of it, leſt he ſhould involve himſelf on the ſcore of bribery. Such, he is told, is the cuſtom of the place. A candidate ought to convince himſelf by enquiry, before he begins his canvas for a particular place, that no improper conduct is expected from him.

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tor of a borough; or is enabled by peculiar circumſtances to command the ſuffrages of its electors. Theſe are tranſactions ſo repugnant to the real import and the genuine uſes of popular repreſentation, that a man who is not blinded by prevailing practice, or by motives of private intereſt and ambition, will probably find it difficult, on ſerious reflection, to ſatisfy himſelf of the propriety of bearing a part in them. If the purchaſe-money be given to the leading member of a corporation, who, reſerving a portion to himſelf, divides the remainder among ſome choſen aſſociates by whoſe co-operation he enſures the event of the poll; the tranſaction, though it may not fall within the letter of the law, is in truth a flagrant act of bribery. And where is the difference in the ſpirit of the proceeding, if the conſideration be paid to ſome potent individual, who, by the diſtribution of his burgage tenures, places the deciſion in the hands of a few ſervile agents; or by menacing tenants with expulſion from their houſes and farms, publicans with the loſs of their licenſes, ſhopkeepers with the ruin of their trade, extorts compliance from the intimidated voters; while in the perſon of the

candidate whom he nominates, he inſults them with the appellation of Freemen, and requeſts the favour of their independent ſuffrages? If the right of voting for a Member of Parliament is undeniably a public truſt; the right of returning a Member by the diſtribution of burgage tenures, or by any other means, cannot be conſidered in a different light. And if the former right ought to be exerciſed without any view to private emolument; reaſon and analogy require that the exerciſe of the latter ſhould be equally and no leſs manifeſtly diſintereſted and pure.

It is affirmed that an individual, who by burgage tenures or by other means can command a ſeat in Parliament, ſometimes finds a perſon who will accept it under a tacit underſtanding, or even, as it is rumoured, under an expreſs and written engagement, to ſubmit the management of his vote to his patron, or to reſign his ſeat. If there be in truth any Member of Parliament thus circumſtanced, let not his ſituation be compared with that of an African ſlave. The latter is a ſlave by conſtraint, and would be diſgraced by the compariſon.

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I ſhould not hitherto have ſuſpended the mention of a topic which might have been introduced ſooner with obvious propriety; had it not ſeemed to lead to a diſcuſſion of ſome length, with which I was unwilling to interrupt the tenor of the preceding pages. I allude to the information which the candidate ſhould afford to the electors reſpecting his political principles.

This information ought on every account to be clear, accurate, and full. Not that it is incumbent on him to enter into minute explanations; nor even to deliver his ſentiments on the merits of any particular meaſure, unleſs he is expreſsly required by the electors, or urged by the aſpect and circumſtances of the times. But a ſtatement of his general view of public affairs, and of the leading principles by which he conceives a Member of Parliament ſhould be actuated, is alike beneficial to the candidate and the conſtituents. It obliges the former previouſly to conſider the proper grounds and ſprings of political conduct with preciſion. It tends to diffuſe ſimilar knowledge

ledge among the latter, and leads them to attend to opinions as well as to men. It in ſome degree pledges the former not to deviate from the rules which he has thus openly preſcribed to himſelf, except in caſes wherein he ſhall be able to vindicate his deviation to the electors when he ſhall again ſolicit their ſuffrages on a diſſolution of Parliament. And it gives the latter the ſatisfaction to which they are entitled, of knowing what they are to expect from the man to whom they entruſt the defence of their liberties. Should the candidate be preſſed to engage that he will ſupport or oppoſe a ſpecific meaſure; he will do well to pauſe, and enter into a more copious explanation. It would be too much to affirm that in no poſſible caſe, however palpable it may be in itſelf, and however maturely he may have conſidered it, is he to venture to anſwer for his future conduct reſpecting it. Yet, in moſt inſtances, the utmoſt length to which he can ſafely advance, is to expreſs his preſent conviction; reſerving to himſelf the liberty of finally giving his vote in ſuch a manner, as, after further reflection on the founda-

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tion of his opinion, and impartial attention to the arguments of thoſe who oppoſe it in or out of Parliament, his conſcience ſhall preſcribe.

Another queſtion naturally occurs, whether the candidate ought to bind himſelf to obey, if elected, the inſtructions of his conſtituents. Such obedience has been held by ſome perſons to be an eſſential part of the duty of a Member of Parliament. If he diſregards the directions of thoſe who have deputed him to appear and act in their place, how, it is ſaid, does he fulfil the office of a Repreſentative? The general opinion however, and the juſt opinion, ſeems plainly to be (*e*), that a Member of the Houſe of Commons is to conſider himſelf not as the mere deputy of thoſe who ſent him thither, but as one of the joint Repreſentatives of the whole People of Great Britain; and that, as far as he is the deputy of his immediate conſtituents, he may deem himſelf, if nothing has previouſly paſſed to the contrary, to have received from them a diſcretionary power of acting on their behalf exactly as he is to act in

(*e*) Blackſtone's Comm. vol. i. p. 159.

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behalf of the reſt of the Nation; that is to ſay, in ſuch manner as the public good and the principles of morality ſhall in his judgement require. Whatever reſpect then may be due to their opinions and inſtructions, he is not neceſſarily pledged to conform to them. If he has given the electors reaſonable grounds to preſume on his obedience, either expreſsly by his declared ſentiments, or impliedly by permitting them to chooſe him under that expectation; he is undoubtedly bound to comply with their injunctions, or to give them the option of vacating his ſeat. But the queſtion under conſideration is, whether he ought to contract ſuch an engagement; and it muſt be determined by the anſwer returned to another, whether the general welfare of the Nation would be forwarded or counteracted by eſtabliſhing obedience to inſtructions as the duty of the popular Repreſentative?

The latter queſtion may for various reaſons be anſwered with a decided negative.

1. The fundamental and indeed the only argument alleged to prove the utility of obedience

dience to inftructions, namely, that it enfures in the Houfe of Commons a fufficient regard to the fenfe of the People, cannot in the prefent inftance be applied with advantage. For, notwithftanding the apparent defects in the national reprefentation, the fenfe of the People concerning any particular meafure, when deliberately formed and permanently expreffed, will become in no long time, from the connection between Members of Parliament and the reft of the Public, from the degree in which the former imbibe by means of converfation and familiar intercourfe the opinion of the latter, from the recurrence of Elections, and the operation of other caufes, the fenfe of the Houfe of Commons. While thofe defects continue, the evils refulting from them would be aggravated in a tenfold degree by the introduction of the paffive principle under confideration; and might give to the petty electors of enflaved and venal boroughs an immoderate and ruinous preponderance in the conftitutional fcale. And whenever a temperate reform of Parliament fhall take place, this argument for obedience to inftructions will ceafe to be at all applicable; as there could then

then be no doubt of ſufficient regard being ſpontaneouſly ſhewn by the Members to the opinions of their Conſtituents.

2. Were the principle of implicit obedience eſtabliſhed, the influence of a corrupt Government and a factious Oppoſition would not be leſs induſtriouſly exerciſed than it is at preſent; but it would be exerciſed in another place. It would be transferred from a ſcene of action where it is exerted on agents who are inveſted with conſpicuous public functions; who are reſponſible for the diſcharge of their truſt; who are watched by the whole Nation which they repreſent; who are impelled by pride and the love of reputation at leaſt, if not by better principles, to keep themſelves pure; who have the moſt ample opportunities of intelligence; who are little expoſed to be hurried away by ſudden phrenſy; to agents obſcure, irreſponſible, ſervile, ignorant, and unſtable. Every borough and every county would exhibit the picture of a perpetual general election. For though the public ſenſe would come ſo plentifully to market, as to be conſiderably lowered in its price; it would never

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be ſuch a drug as not to find a purchaſer. Hence would ariſe an uninterrupted ſucceſſion of cabals, of bribery, of artifices, and of riots, with all their attendant evils, public, private, and domeſtic, ſimilar to thoſe which are now experienced in their full force but once in ſeven years.

3. The effects which the introduction of this principle would produce, by taking away the weight and the dignity of the Houſe of Commons in its collective capacity, as well as that of the individual Members, would be in the higheſt degree pernicious and alarming. The characteriſtic advantages of the inſtitution would be undermined and annihilated. The ſame pains would no longer be taken in the acquiſition of political knowledge, there being no longer the ſame ſcope for laudable exertion. Public debates would languiſh, and the beneficial conſequences of their being witneſſed would be loſt. The Borough Demagogue, and not the Member of Parliament, would be the man of importance. The public ſpeaker, abandoning the Houſe of Commons, would fly to the popular meeting as the road to

eminence and the real ſeat of power. It is there that without evidence, without authorities or documents, he would call his auditors to decide on the conduct of negotiations or the expediency of treaties, on the ſtate of public accounts, on military and naval operations, on the moſt intricate proceedings of Government, and the moſt complicated charges of miniſterial delinquency. The duty of watching over the intereſt of Great Britain being thus virtually ſnatched away from the Houſe of Commons, and divided and portioned out among a multitude of inferior juriſdictions, would be well performed no where. The unity of the democratic part of the Conſtitution would be broken; meeting would be played off againſt meeting, and inſtructions, now become peremptory, againſt inſtructions. Members of Parliament, ſtripped, if not of the right of judging, yet of the power of acting according to their judgement, would become the mere proxies of ariſtocratic chiefs, contemptible corporations, and miſguided mobs. The Houſe of Commons, the ſafeguard of the Britiſh Conſtitution, would be altogether de-

prived of its energy, and ſink into ſilent contempt. And the Conſtitution itſelf, though its forms might continue to ſubſiſt for a time, would ſpeedily be found to have loſt its genuine ſpirit, and that well-poiſed equilibrium eſſential to the happineſs of thoſe under its protection.

Such would apparently be the fatal conſequences of univerſally obliging the popular Repreſentative implicitly to obey the inſtructions of his Conſtituents; and ſuch are the evils which every Candidate or Member of Parliament who now binds himſelf to obey them, contributes to entail upon his country. Let me not however be underſtood to deny the right of the Electors to communicate individually, or collectively, to their Repreſentative their opinion of any public meaſure whatever; nor to queſtion the propriety of exerciſing it on important occaſions. On ſuch occaſions it is ſtrictly their duty to exerciſe it; and even a repeated exerciſe of it on the ſame topic may ſometimes be highly adviſable. But let not the communication, though made under the name and form of inſtructions, be intended

deſpotically to conſtrain him to act in oppoſition to his better information and maturer judgement. The declared ſentiments of his Conſtituents will always claim from him reſpectful and deliberate regard; eſpecially when they proceed from numerous and well-informed bodies of men; and when they relate to meaſures which reſt on ſimple principles of politics, or more eſpecially of morality, obvious to common apprehenſion.

There is yet another ſubject to which I have already had occaſion briefly to advert; the expenſiveneſs of Elections, particularly if conteſted. The evils which flow from this ſource are ſo many, and ſo alarming, as to be entitled to more diſtinct and ample conſideration than could hitherto have been conveniently afforded to them. They may be reduced under two heads; the firſt compriſing ſuch as endanger the general happineſs by immediately affecting the Houſe of Commons; the ſecond, ſuch as undermine it by their influence on private individuals.

1. The unbounded profuſion which the eagerneſs

eagerneſs of competition has introduced, and eſtabliſhed cuſtom has ſanctioned, confines within narrow limits the choice of the Electors, by deterring or diſabling numbers, deſirous and fit to repreſent them, from involving themſelves in a ruinous conteſt. It tends to deſtroy the balance of the Conſtitution, by virtually transferring the right of election from the people at large, either to combinations of Peers, who may find their advantage, eſpecially in the caſe of county elections, in uniting to cruſh all oppoſition to their mandates, by holding out to the independent Country Gentleman the proſpect of intolerable expence; or to the Crown, whoſe Miniſters may occaſionally be corrupt enough to fight the battles of their dependents directly or indirectly out of the public purſe; or to the leading political parties of the day, who may bring forward, on the ſtrength of large ſubſcriptions, a number of their adherents on whoſe ſervility they can rely. It tends to fill the Houſe of Commons with Repreſentatives of Boroughs little known to their Conſtituents, little connected with them, neither reſpecting them nor reſpected by them; and to preclude the advan-

tages which reſult from the Member of Parliament feeling himſelf reſponſible to thoſe whom he immediately repreſents. It tends to render the public man little ſhocked at venality; for it is that perhaps to which he owes the poſſeſſion of his ſeat: and little ſolicitous about his character or his actions; for thoſe are not the recommendations to which he looks for the continuance of it. It tends to ſupport the factions which range themſelves on the ſide of the Court, and thoſe which are arrayed under the banners of Oppoſition, by increaſing the number of needy Members; and of needy Members peculiarly indiſpoſed to brook the preſſure of contracted circumſtances, from having been in poſſeſſion of affluence previous to their election. Many a victorious Candidate, when he enters the Houſe of Commons,

——Stands as one eſcaped from cruel fight,
Sore toil'd, his riven arms to havoc hewn,
And cloudy in aſpect (*f*);

and is ſtrongly tempted to graſp at the forbidden remedy, which promiſes to allay the

(*f*) Milton's Paradiſe Loſt, b. vi. l. 448.

ſmart

ſmart of his wounds, and reſtore him to his priſtine vigour. By the preſent expenſive ſyſtem of conducting Elections, men who had riſen to wealth by the plunder of diſtant regions might be enabled to force their way into the Britiſh Parliament through the barriers erected to ſecure the Conſtitution; and triumphantly to introduce through the breach a band of diſciplined adherents, by whoſe aid they might elude the accuſations and defeat the claims of juſtice, and thus encourage the rapacity of future oppreſſors. The combined operation of theſe various evils contributes materially to injure the Houſe of Commons in the public eſteem, to caſt a general imputation on its proceedings, and by detracting from its credit to diminiſh its power; while at the ſame time it accumulates obſtructions to every plan of reform by which they might be reſtrained.

2. The effects produced on individuals are alike injurious to private happineſs and to the general welfare of the community. The irritation excited by the loſs ſuſtained in point of fortune, both by the winning and the loſing

competitor, ſharpens the inveteracy of party; lengthens the ſhyneſs and animoſities ariſing from the conteſt; and aggravates the angry purpoſe of retaliation and revenge, bequeathed from father to ſon, and deſtined to embroil ſubſequent generations. The family in the mean time, like the wife of Seneca, bears in its faded form and pallid countenance a memento of the blood which it has loſt. Every ſtep is feeble, every exertion languid. Domeſtic comforts are narrowed; and thoſe that remain are embittered by the recollection of ſuch as are no longer attainable. The education of children is conducted on a leſs ample plan; their deſtination in the world determined by leſs liberal views; and their ſettlement in life formed on a more contracted ſcale. Or the humiliation of retrenchment in outward ſplendour is ſhunned by an exorbitant and therefore ſhort-lived riſe of rents, by the premature deſtruction of timber, by the neglect of the neceſſary erection or repairs of farm-houſes, by imprudent mortgages, and by temporary expedients, often ruinous in the end; by diſplaying in oſtentatious luxury whatever penurioufneſs can ſave in neceſſary

expences;

expences; and by assigning to gaudy pomp what was formerly devoted to compassion and charity. But the lavish expensiveness of Elections extends its pe nicious influence far beyond the leaders of the contending sides. It promotes almost every kind of vice; and supplies without limit the materials for drunkenness to the voters and their families, with all its attendant effects on their morals and habits of life. It is injurious to the peace of society, by familiarising the lower ranks to scenes of profligacy and riot. It is injurious to commerce, by accustoming the manufacturer to idleness and intemperance (*g*), thus rendering him indisposed or unable to work. It is injurious to the national strength, by ruining the health together with the morals of the subject. It is injurious to the Constitution, by extinguishing public spirit and virtuous principles of political conduct in the breast of the People; and by impressing the considerate and the good with such an abhorrence of the

(*g*) So convinced are some of our unrepresented manufacturing towns of this truth, that they would consider the right of electing Members of Parliament as one of the greatest calamities which could befall them.

numberleſs miſchiefs ariſing from it, as to deter them from coming forward as Candidates, and almoſt to inſpire them with diſguſt againſt Elections and Parliaments. In all theſe different ways, as well as by its immediate effects on the Houſe of Commons, it preys on the welfare and endangers the ſtability of the Empire.

Maladies which from their nature appear on the point of exhauſting and wearing out themſelves, may be permitted to take their courſe. But this malady threatens to increaſe with the increaſing wealth of the State. The extenſion of trade, foreign and domeſtic, prepares a continual influx of monied Candidates; and the thirſt of bribes, rendered inſatiable by cuſtomary and periodical indulgence, will ſtimulate the Electors more and more. Foſtered thus by natural cauſes, the growing evil can be checked only by the ſtrong arm of law. And the Member of Parliament who ſhall deviſe and carry into execution a plan by which it may be ſpeedily and generally checked, may congratulate himſelf on having rendered a more eſſential ſervice to his country,

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than the General who by his victories ſhould add new provinces to her dominion.

It remains to ſubjoin, according to the order already propoſed, a few remarks on thoſe peculiarities in the ſituation of a Member of the Houſe of Commons, to which the obſervations already made on the parliamentary duties of Peers are not immediately applicable.

The Member of the Lower Houſe, having an identity of intereſt with the maſs of private Citizens from which he has been recently taken, and into which, generally ſpeaking, he is ſhortly to return, is exempt from many of the prejudices which envelop hereditary and permanent Nobility. But while he feels, in common with the Peer, the enſnaring allurements of promotion, of emolument, and of party; he is alſo expoſed to prepoſſeſſions and temptations of his own. He is liable to be influenced in his conduct by undue motives reſulting from his paſt and preſent ſituation. He is in danger of being led to commit himſelf as a ſupporter and partiſan of Government, by

by aſking favours for the friends who have promoted his intereſt, or may be likely to promote it, at elections. He is apt to regard himſelf, not as the diſintereſted Repreſentative of all his Conſtituents, but as the partial delegate of thoſe who voted in his favour; to be guided in ſupporting or oppoſing political meaſures, rather by views of re-election than by the dictates of conſcience; and, when the private advantage of the Borough or of the County by which he is deputed, jars and claſhes with the public good, to forget that he is a Repreſentative of all the People of Great Britain.

It occaſionally happens that a young man of little fortune, but of promiſing talents, is introduced into the Houſe of Commons by ſome political chieftain on a ſort of mutual ſpeculation. The former truſts that he ſhall obtain credit and influence; the latter, that the credit and influence which the *elève* may acquire, will redound to the honour and contribute to the advantage of the patron. A young Member thus ſituated enjoys for a time the complaiſance uſually manifeſted by the Houſe towards

wards young Members; but when that has ſubſided, as of courſe it ſoon muſt, he commonly finds a very ſtrong prejudice ſubſiſting againſt him, and ſhewing itſelf in thoſe ways which are well known to perſons accuſtomed to witneſs the debates. This prejudice is generally ſo powerful as not to be overcome but by extraordinary abilities. As far as it originates in envy, and thence it often ariſes in part, it is highly blamable. But as far as the diſapprobation is founded on reaſon, it ought by no means to be ſmothered. For the trade in queſtion is in a moral light ſo objectionable, that it is very deſirable that few perſons ſhould conceive themſelves to have capital ſufficient for undertaking it.

Except under very particular circumſtances a Member of Parliament ought not *to pair off*, as the term is, without having an intimate knowledge of the whole of the ſubject at iſſue; leſt new facts ſhould be brought to light, and new reaſonings advanced, which, had he been preſent, might have altered his opinion. When previouſly ſolicited, as he frequently will be, to take a ſpecified part re-

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ſpecting ſome private buſineſs depending, never let him promiſe more than that he will *attend* the progreſs of the Bill, and vote according to what he ſhall deem its real merits. The ſolicitations urged on ſuch occaſions are often ſo importunate and ſo unreaſonable, as to have ſome chance of impelling the perſon to whom they are addreſſed into an unmerited partiality for the other ſide of the queſtion. It is to be feared, however, that it is by no means uncommon for individuals in the Upper as well as in the Lower Houſe to be governed by motives very different from thoſe of public duty in voting on what is called private buſineſs. He who obſerves the conſciences of his neighbours ſlumbering in torpor and ſupineneſs ought to be on his guard to preſerve his own from the contagion.

Feigned excuſes and exaggerated ſtatements of ſickneſs, framed for the purpoſe of eſcaping the trouble of attending on Calls of the Houſe, or on Committees, will be ſcrupulouſly avoided by a conſcientious Member of Parliament. And as attendance on Committees, whether relating to elections or to other ſubjects, frequently

quently proves a fatiguing and laborious office, though an office in which much parliamentary and much general knowledge may be acquired; thoſe Members in particular who are young and robuſt ought to make a point of undertaking it. Active and impartial attention in examining witneſſes on ſuch occaſions, and a perfect freedom from the influence of private attachment or diſlike, as well as of political conſiderations in forming a deciſion, are duties of ſo obvious a nature, whether enforced in each individual caſe by oath or not, that it ſeems unneceſſary to dwell upon them.

As the Houſe of Commons claims to itſelf the excluſive management of the public purſe, the right of originating and fixing all pecuniary impoſitions to be levied on the ſubject, and of withholding from Government the cuſtomary ſupplies (a control wiſely veſted in the Popular Repreſentatives, in order that they may be enabled in great emergencies to ſecure compliance with the general ſenſe of the People); the proper mode of exerting this power becomes one of the firſt conſiderations which ought to occupy the mind of

an individual Member. It is a keen and tempered weapon, by which the Houſe of Commons, when ſhielded by the concurrence of the Nation, may ultimately bring the other branches of the Legiſlature to its own terms. But it ought never to be exerciſed in any degree for the mere purpoſe of impeding the meaſures of Government, and of advancing a particular party to power; nor of gratifying unreaſonable jealouſies entertained againſt the Houſe of Lords or the Crown; nor of infringing on the rights reſpectively aſſigned to them by the Conſtitution. It is fitly employed in lopping off redundant expences, needleſs offices, and unmerited penſions; and in promoting, by the rigorous eſtabliſhment of œconomy in every department of the State, the virtue and happineſs of Great Britain, and the peace and tranquillity of the world.

CHAP. VII.

ON THE DUTIES OF THE EXECUTIVE OFFICERS OF GOVERNMENT.

THE appellation of Executive Officers may be given to all perſons poſſeſſed of offices inſtituted for the national ſervice, and paid out of the national purſe. Theſe public functionaries are of various profeſſions, and of various ranks. Our concern in the preſent chapter is with thoſe who, occupying the higheſt poſts in the civil department of the State, may be regarded as the depoſitaries, under the Crown, of the political power of Government.

As it is not my deſign to enter into a detail of the circumſtances which diſcriminate the authority, juriſdiction and employment of one Member of the Cabinet from thoſe of another; the confuſion which would attend the mention of ſeveral perſons at once will apparently be beſt avoided by couching the ſubſequent obſervations

ſervations in general terms. Though ſome of theſe obſervations may have particular reference to a Prime Miniſter, they will commonly be applicable to his colleagues; and the application will be too obvious to require to be pointedly made or illuſtrated.

The motives and views which ſhould guide the determination of a conſcientious man, with reſpect to accepting an executive employment, with reſpect to the performance of its duties, and with reſpect to reſigning it, will be ſucceſſively conſidered.

I. A good man, who has an official ſituation in proſpect, will diligently occupy himſelf in the preparatory cultivation and improvement of his underſtanding, principles, and diſpoſitions. He will exert himſelf to acquire by ſtudy, by meditation, by an obſervance of men and manners, that enlargement of his intellectual powers and capacities, that knowledge and experience, that preſence of mind, thoſe habits and virtues, of which he is likely to ſtand in need. He will be guided in his purſuits by an eſpecial regard to the functions of the

the poſt which more particularly opens to his view; and the higher that poſt is, the more will he extend his attention beyond its immediate limits; the more induſtriouſly will he ſtrive to qualify himſelf to turn to the account of the Public the influence which it may afford him over other departments of the State; and the more cloſely will he obſerve at home the operation of thoſe general cauſes which have contributed in other times, and in other countries, to the growth or to the decline of the morals and the ſtrength of Empires.

The public welfare is the object of official inſtitutions. It is an object to which a good man will pay ſtedfaſt attention in determining the courſe which he ſhould adopt, when promotion throws open her gates before him. He will not accept an office, unleſs he is perſuaded that in point of talents, of information, of diligence, of health, he is competent to fulfil the duties of it to the ſatisfaction and benefit of his country. In making the eſtimate, he will beware of over-rating the amount or miſconceiving the nature of his own abilities; and of affixing an undue value to wealth, power, ho-

nours, and reputation. He will alſo take into the account the temptations by which he muſt expect to be aſſailed; and the ſtrength which they may derive from the peculiarities of his own circumſtances, temper, and diſpoſitions. And above all things he will ſcrupulouſly try himſelf in the balance of integrity, that he may diſcern whether he poſſeſſes that upright ſimplicity and ſtedfaſt firmneſs of mind, which may enable him to reſiſt the allurements of perſonal emolument; to keep himſelf diſentangled from the ſnares of party; and to refuſe improper applications preſuming on private friendſhip and affection, and aided by the importunity of his colleagues in power. He will alſo attend to the moral effects which his elevation may appear likely to produce on his family. He will not accept an office to the excluſion of any other perſon, by whoſe appointment he believes that the public intereſt would be more eſſentially promoted than by his own. Not that he would neceſſarily be criminal in undertaking the employment, even though he ſhould know that another man more capable of diſcharging its duties would probably be advanced to it, were it not pre-occupied.

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He would unquestionably be bound in conscience to point him out. But Ministers are frequently obliged to divide the several offices of Government among themselves, according to the principle on which the Manager of a Theatre casts the parts in a Drama. At any rate a character is not to be consigned to an actor who is not able to support it; yet it is not always to be committed to the person who is most qualified for the task. His services in that part may possibly be well supplied by an inferior performer; but they may be indispensably requisite in another, where no substitute can be found.

A good man, though satisfied of his own competence faithfully to discharge the duties of the post which is offered to him, will not resolve to accept it, until he has maturely weighed the character and political views both of the Sovereign whom he is to serve, and of the public men with whom he shall have to co-operate. By the accession of his strength, be it less or more, a bad Administration may have the term of its continuance prolonged; or a good one may be established to the exclusion

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of a better. And in either caſe the Public may receive an injury from his concurrence, for which the moſt zealous exertion of his perſonal ſervices may never be able to compenſate.

He will remember, that no quality raiſes a perſon ſo high in the opinion of the country as diſintereſtedneſs. He will not ignominiouſly put himſelf up to ſale, ſtickling for ſordid and unwarrantable ſtipulations; nor render his character deſpicable in the eyes of honeſt men, by marking his entrance into office with the acquiſition of ſome unmerited perſonal decoration or advancement in rank for himſelf, or of ſome lucrative and equally unmerited reverſion for his ſon. The acceptance of an office under circumſtances of ambiguity, or ſuſpicion, not only degrades the particular individual, and by tarniſhing his credit permanently impairs his power of doing good; but tends to extinguiſh patriotiſm, by diffuſing an univerſal diſtruſt of miniſterial integrity. He will therefore impartially conſider, whether, by ſtepping into the poſt in the exiſting ſtate of affairs, he may not laviſh away to little purpoſe his ſtock of public eſtimation, for the

prudent expenditure of which no leſs than of every other talent he is ſtrictly reſponſible. He is to regard it as a raw material, too precious to be worked up in articles of a ſlight and periſhable nature. It is to form the baſis of every texture with which he is hereafter to cheriſh and decorate his country. But if, on the other hand, the preſent emergence ſhould be ſuch as to require him to expend it liberally, he will not ſhrink from incurring the unpopularity of accepting an official ſtation; and will rejoice in offering up the ſacrifice of preſent reputation at the ſhrine of public happineſs.

A good man, as he will abſtain from practiſing undue arts towards the King, towards potent Individuals, and towards Parliament, and never will reſort to humiliating ſolicitations for the purpoſe of paving his way to an official employment; ſo will he be extremely cautious, on accepting it, of entering into any engagements either with reſpect to his general conduct, or to his permanent co-operation with particular perſons. It is impoſſible for him to anticipate the circumſtances in which he may

afterwards find himſelf involved in conſequence of his own miniſterial ſtation, or of the viciſſitude of events at home and abroad. He cannot foreſee the changes which may take place in his preſent views of meaſures and of men. He cannot ſufficiently guard againſt the diſtreſſing dilemma of being obliged to abandon his poſt at a time perhaps when his country loudly calls for his ſervices; or of ſuſtaining the pointed reproaches and the undiſguiſed contempt of his colleagues. There is not perhaps any circumſtance which contributes more effectually to degrade a Stateſman in the eyes of the community at large, and to diſqualify him from obtaining the confidence eſſential to the ſucceſs of all his ſubſequent exertions, than an opinion, though ill founded, of his inſincerity. The tendency however of theſe remarks is merely to warn him againſt contracting precipitate engagements, not to diſcourage a manly avowal of his principles. It is on many accounts of the higheſt moment that, previouſly to his undertaking the office propoſed to him, the Nation which he is to ſerve, and the coadjutors with whom he is to act, ſhould be appriſed of his political tenets. It is altogether

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neceſſary for his future peace, that he ſhould be conſcientiouſly explicit with the latter; and, while he ſhews himſelf not unwilling to bear a part in an Adminiſtration with ſome of the Members of which he differs in ſentiment on political points of ſecondary importance, that he ſhould not leave them directly or indirectly impreſſed with the idea, that his concurrence may be expected in meaſures which his deliberate judgement ſhall condemn.

The money raiſed from the People for the public benefit is deſigned to be applied in the payment of actual ſervices, not in gratuitous donations. It is true that there are certain poſts, excluſive of thoſe offices which the policy of the State deems expedient for ſupporting the dignity and ſplendour of the Crown, to which no public duties are attached. But theſe, as long as the number and the value of them are confined within due limits, have their proper uſe. They are deſtined to requite extraordinary merit; to ſecure a reaſonable proviſion to an individual, or to his immediate deſcendants, if his abilities are called from a ſituation of advantage to himſelf, to one leſs

lucrative and permanent, but more beneficial to his country; to afford becoming retirements to thoſe faithful ſervants of the community, whom on account of their declining years, health, or abilities, or of ſome peculiar occurrence in the political hemiſphere, it is fit to remove with honour from the buſy ſtage; and occaſionally, perhaps, by furniſhing leiſure and competence to a man of induſtry, ſcience, or learning, to enable him to accompliſh a work or perfect a plan of national utility. A good man therefore ought not to accept one of theſe ſinecures (*a*), unleſs he believes himſelf honeſtly entitled, on one or other of the principles which have been ſtated, to public remuneration or public maintenance. And if he accepts it as the means and the recompenſe of future exertions, he will punctually fulfil his engagement; and will at once relinquiſh the earneſt which he has received, if he ſhould find himſelf incapable of redeeming the pledge which he has given.

(*a*) The Tellerſhips of the Exchequer, and Chief Juſticeſhips in Eyre, are inſtances, among others, of the ſort of offices alluded to. There are likewiſe Military Governments of a ſimilar deſcription.

II. Let

II. Let us now ſuppoſe the die caſt; and conſider the views which will influence a conſcientious man, when in the actual poſſeſſion of an efficient poſt in Adminiſtration.

For the ſake of perſpicuity it may be expedient to diſtribute the following reflections under different heads; and, after having employed the firſt of thoſe heads in general obſervations, ſucceſſively to appropriate the remainder to the duties of a Miniſter with reſpect to the exerciſe of patronage; the tranſaction of official buſineſs; the choice of public meaſures to be brought forward; and the conduct to be obſerved towards the Crown, towards Parliament, and towards Foreign Powers.

1. From the firſt moment of his occupying a ſtation in the Executive Government, a good Miniſter will devote himſelf to a ſedulous diſcharge of its duties. He will perceive that the Public has the ſame right to his exertions which any other maſter has to thoſe of any other ſervant. He will therefore aſk himſelf habitually what it would be reaſonable for him

to

to expect, if the interests confided to him were absolutely his own, from any subordinate agent whom he should entrust with the management and superintendance of them; and will at the same time bear in mind, that public business would never proceed, if Ministers were not to give far more time and attention to it, than a private agent is ever found to bestow on the concerns committed to his care. To diligence he will add punctuality even in matters of comparatively small importance, as well as in those of superior magnitude. Unwilling to occasion disappointments, he will be cautious of exciting expectations; slow to make promises, he will be strict in fulfilling them. He will guard against falsehood, expressed or implied; against insincerity, in all its shapes and modifications. He will not strive to retain his friends or to conciliate his enemies by practising on their weaknesses, their credulity, their avarice, their fears, their vanity, or their pride. He will not encourage their failings or their vices to gain their support. But, while he discards artful condescension, he will cultivate ingenuous affability. He will be universally free from superciliousness, and shew himself easy

eaſy of acceſs to the humbleſt of his fellow-ſubjects, with whom buſineſs may render it neceſſary for him to have intercourſe. He will be candid in attending to repreſentations, patient in liſtening to complaints, free from irritability and peeviſhneſs under provocations. He will uniformly diſcountenance flattery, and every degree of ſervile compliance, whether in his immediate dependents, or in thoſe who ſolicit his protection and favour. Conſcious of the extenſive influence of his example, he will endeavour, as far as may be practicable, to regulate his converſation and actions with a view to the general encouragement of every thing that is good and laudable. He will not permit the affairs of State unneceſſarily to detain him from the public offices of religion; nor ſelect the Sabbath as the day for levees and entertainments. Aware of the baneful effects of progreſſive luxury, he will diſcover in his conduct a marked diſtinction between his miniſterial and his perſonal capacity; and, if the former require an occaſional degree of pomp and ſplendour, will exhibit in the latter ſimplicity and moderation. Uncorrupt himſelf, he will ſet his face againſt

every

every mode of corruption in his dependents; and will not connive at practices in them, in which he would deem it dishonest to be personally concerned. Proposing the good of his country as the leading object of his labours; and mindful of the express and solemn terms in which Revelation prohibits her votaries from pursuing the most valuable object by any other means than truth and virtue; he will watch his own proceedings with unremitting jealousy, lest in some unguarded moment present convenience, personal interest, private affection, or any other sinister or reprehensible motive, should lead him unwarily to allow in himself, or in his subordinates, or to behold with indifference in his co-adjutors, a deviation from the paths of uprightness and sincerity. He will remember that criminal pliability, in addition to the guilt which is contracted by it, involves the ruin of his character. Let him not hope that his fault may rest unknown. The enemies of a Minister have eagles' eyes to discern their prey, and eagles' talons to tear it in pieces. He will remember, that in the whole catalogue of vices there is scarcely one more encroaching than political

political corruption. It is a diſeaſe which makes its advances with ſuch unſuſpected rapidity, that, almoſt before it attracts notice, it has ſeized the vitals. What has been once done, pleads precedent; and a former tranſgreſſion often ſeems to require a ſecond to vindicate it. The only antidote by which a Miniſter can ſecure himſelf from the contagion, is the habit, formed betimes and reſolutely maintained, of deciding at once on every caſe on the ſtable ground of rectitude; without expoſing the bulwarks of his integrity to the riſk of being undermined, while he is holding parley with expediency.

While he ſhuns the ſhoals and quickſands in which the young Stateſman is frequently entangled by an immoderate love of fame; he will ſteer aloof from a rock no leſs dangerous to old Politicians, a contempt of popular opinion. Knowing himſelf to be in ſome meaſure precluded, like a King, from hearing uniformly the voice of truth, he will endeavour to obtain at leaſt one faithful and intelligent friend, who will point out his failings with kind but impartial ſincerity; and keep him

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on his guard againſt being ſeduced by the inceſſant temptations attendant on office, or the conduct of inconſiderate and prejudiced colleagues. He will carefully weigh the imputations caſt upon him by his political enemies, and avail himſelf of their malevolence as a remedy, however bitter and acrimonious, againſt the faſcination of ſelf-love, and the deluſions produced by an increaſing fondneſs for power. And though he ſhould find, as he probably will find, that his conduct is perpetually miſunderſtood or miſrepreſented, and that to clear up miſconceptions is almoſt as difficult a taſk as to prevent them; yet let him not be ſeduced by thoſe circumſtances to be in a ſingle inſtance leſs ſcrupulous either in point of diligence or of rectitude, nor careleſsly to omit to take proper methods for the purpoſe of obviating ſuch miſtaken ideas of his motives and proceedings as are on any account worthy of notice.

2. Aſſiduous in fortifying every inlet of danger, while he practiſes univerſal courteſy, he will diveſt himſelf of that obſequious facility of temper which is incapable of giving a

denial. He will labour to arm his mind with inflexible conſtancy. While he is guarding againſt inordinate ſelf-eſteem, and want of ſympathy for diſappointment and diſtreſs, the common effects of power long enjoyed; he will be equally on the watch againſt indulging an extravagant partiality for his relations, friends, and favourites; and will not decorate them with unmerited titles, nor load them with penſions, offices, and reverſions. In the diſpoſal of honours and emoluments, the good of his country will be his ruling motive. That principle he will openly and uniformly avow; and will be anxious to exempt himſelf by all reaſonable precautions from the ſuſpicion of being influenced by the ſiniſter allurements of miniſterial or private convenience. There are few methods by which a Stateſman can render more eſſential ſervice to the community than by a judicious exerciſe of his patronage. Conſiſtent ſimplicity of conduct in this point, manifeſtly combined with perſonal diſintereſtedneſs, will not only ſecure to himſelf national confidence and eſteem, and conciliate to his meaſures that general favour and approbation, which

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in the hands of an upright Minifter become the means of accomplifhing the nobleft and moft beneficial defigns; will not only contribute to excite every fubordinate officer to a diligent and faithful difcharge of his duty; but will tend to revive and invigorate public fpirit in every quarter of the kingdom; to call forth an emulation in virtue; to diffufe an ardour of patriotifm, which fpreading through every clafs of the community, every department of the State, every branch of the public fervice, will produce effects truly great and glorious. There are likewife other advantages refulting from a fteady adherence to this principle, of which he will himfelf reap the peculiar and immediate comfort. He will thus preclude his fupporters, as far as it is poffible to preclude them, from every oftenfible plea for taking offence when their requefts, improper in themfelves, or unfit to be granted under exifting circumftances, are refufed; and deter them from preferring numberlefs claims, the rejection of which would have drawn upon him the refentment, and perhaps the active oppofition, of difappointed pride. If his fituation enables him in fome meafure to

guide

guide the Crown in conferring the dignity of Peerage, he will recollect that in beſtowing a title on an individual he gives a Legiſlator to his country. In diſtributing eccleſiaſtical promotions he will conſult the welfare of religion. In the nomination of the commanders of fleets and armies, he will have regard to perſonal merit, not to parliamentary connections. He will not aſſign the office of conducting an expedition acroſs the ocean to a Member of the Upper or of the Lower Houſe, either for the mere purpoſe of gaining over, or of removing, a troubleſome opponent. If thoſe whom he appoints ſhould be guilty of peculation, ſcandalous neglect, or other criminal proceedings; he will not ſtrive to ſhelter them from enquiry and from puniſhment, either, on the one hand, in conſequence of being attached to them as his own friends and ſupporters; or of foreſeeing on the other, if their relatives and connections are adverſe to him in politics, that his acquieſcence in the ſcrutiny and the chaſtiſement will be clamorouſly aſcribed to a deſire of wreaking vengeance on his oppoſers. If through events, which they could not control, they ſhould fail of ſucceſs in their

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profeſſional efforts, he will not ſcreen himſelf by making them the unjuſt victims of public indignation. In filling up inferior official ſituations, and in recommending perſons to his Sovereign, when the poſt which he occupies authoriſes ſuch a ſtep, to be placed at the head of high executive departments; he will ſcrupulouſly make choice of men, whoſe abilities and attainments are ſuited to the functions which they will have to diſcharge. He will be cautious in his appointment of public ſervants abroad, not merely in proportion as the truſt committed to them is important, but in proportion likewiſe as their removal from inſpection renders the detection of miſconduct more difficult; and thus contributes to exempt them from the reſtraint of conſcious reſponſibility. Shunning the example of France in the days of her ancient Government, when ſhe conſtructed with ſtupendous magnificence the highways which connected her populous cities, and abandoned the meaner and leſs frequented roads to impaſſable ruin; he will be no leſs conſtantly guarded in his nomination to offices in obſcure corners of the realm, and in diſtant colonies, than to thoſe which are expoſed

expoſed to daily obſervation. He will ſeek, he will encourage, and he will reward merit, in whatever line it may be found, and in whatever ſituation it is employed. Inſtead of indiſcriminately committing to Members of Parliament who ſupport him, the nomination to public offices in his diſpoſal which become vacant in their reſpective boroughs; he will not heſitate to give a denial, when the perſon recommended is obviouſly unfit for the employment; and in doubtful caſes will endeavour to procure impartial and ſatisfactory information. He will not graſp at the patronage allotted to his colleagues; nor, while he converts to its deſtined purpoſe that which the Conſtitution and eſtabliſhed uſage have annexed to the poſt which he fills, will he attempt to extend it by creating unneceſſary offices; nor will he feel himſelf excuſed by the ſelfiſh example of his predeceſſors, from aboliſhing ſuch as he finds exiſting.

3. The ſame ſpirit of impartiality, the ſame attention to the general welfare, will direct him in executing the buſineſs of his office, and in ſuperintending the proceedings of his

deputies and aſſiſtants. In his tranſactions on behalf of Government with private individuals, if loans or contracts are to be ſettled, he will cloſe with ſuch of the competitors, provided they are likely to fulfil their engagements, as offer terms the moſt advantageous to the Public. If claims are to be balanced, difficulties removed, or diſputes determined, he will diſtribute equal juſtice to every perſon concerned, whether enrolled in the liſt of his adherents, or attached to the bittereſt enemies of his adminiſtration. He will abſtain himſelf, and endeavour to make his ſubordinates abſtain, from thwarting by ſtudied obſtructions, from irritating by petulance and peeviſhneſs, and from wearying by needleſs or artificial delays, thoſe who happen to be connected with an obnoxious party. In executing the various duties of his department, he will purſue a courſe of ſtrict regularity and method. He will not neglect to enter cloſely into details; nor let the various returns made to his office remain unexamined like (*b*) waſte paper. He will not ſuffer

(*b*) The bad conſequences which may reſult from want of forethought, method, and attention to detail, in Miniſters of State, and in great Executive Boards, are extreme, eſpecially

ſuffer buſineſs to accumulate by procraſtination; nor content himſelf with diſpatching thoſe affairs which will not allow of delay; and permit matters ultimately perhaps of greater moment to the country to be poſtponed from time to time, until at length the maſs ſwells to ſuch a ſize as to deter him from inſpecting it. He will not excite a ſpirit of diſſatisfaction in individuals, or in bodies of men, by ſlighting applications or memorials addreſſed to him in his official capacity, and worthy from their nature of ſerious and ſpeedy regard. While he provides adequate ſalaries for thoſe efficient men on whom the drudgery

eſpecially in time of war. If it ſhould happen, for example, at any period, that care and prudence are not exerted by the Admiralty in the diſpoſition of the naval force of the kingdom; if, for want of attention in examining returns, journals, and other documents, ſhips are ſuffered to waſte their time in port; if, for want of a proper arrangement of the ſhips, important ſervices are neglected, and our trade is expoſed to the enemy; if, through ſimilar cauſes, an hundred veſſels are requiſite to do what by better management fifty might have done; it is evident that Great Britain muſt carry on a war at an enormous unneceſſary expence, and in every reſpect to very great diſadvantage. The ſame reaſoning may be applied, with ſome obvious alterations, to the other high official departments.

of official labour is devolved; he will punifh frauds, reform abufes, and retrench extravagant fees. He will be vigilant to the utmoft of his power in taking fit meafures to prevent the grievous injuries which the public may fuftain, both in a pecuniary light and in other refpects, by difhonefty on the part of thofe who are to provide the requifite quantity, or to decide on the quality, of ftores defigned for national ufes; whether provifions for the fleet and army, mafts and other timber for the navy, cannon and other articles in the ordnance line, or whatever elfe is to be expended for the fervice of the community at home or abroad. He will put an end to fuch forms and ufages in tranfacting bufinefs, as he difcovers to be detrimental to the public, whatever temporary advantage he might be likely to derive from their continuance. And he will make a cautious and fparing ufe of any power annexed to his fituation (*c*), the exercife of which, however expedient under particular circumftances, is in its own nature injurious to the comfort of individuals, or at

(*c*) As the right of detaining and opening letters, and other fimilar powers.

variance

variance with the free ſpirit of the Britiſh laws.

In the expenditure of public money entruſted to his care he will be honeſt, punctual, and œconomical; and will be expeditious in delivering, as well as fair in drawing up, his accounts. He will appropriate the ſeveral ſums to the particular articles to which they have been ſpecifically allotted by parliamentary reſolutions: or if ſudden emergences and unforeſeen wants ſhall compel him to apportion them according to a different rule, or even to divert a part into other channels of ſervice, he will accurately ſtate to the Public the deviation, and the cauſe of it, and throw himſelf implicitly upon the national candour and judgement. He will not ſuffer public money to be improperly detained by the receivers or other officers employed in collecting it, even though they ſhould be men of conſiderable rank and influence, and engaged to himſelf by perſonal or political connection. He will not expend what was raiſed for the general benefit of the community in private *jobs* for the emolument of himſelf and his adherents; nor in ſapping the foundations of national independence,

by influencing elections, bribing Members of Parliament, or hiring newſpaper-writers and pamphleteers to ſpread direct or indirect falſehoods in his favour, and miſrepreſent and vilify his opponents. If money to be diſburſed in ſecret ſervices at home or abroad be committed to his diſpoſal; he will faithfully abſtain, whether the ſum be limited or not, whether the due application of it be or be not enforced by an oath (*d*), from expending any part of it for purpoſes either morally unjuſtifiable, or contrary the import of the truſt confided to him. And if political expediency ſhould tempt him to practiſe, directly or through intermediate agents, on the avarice of the ſubjects of foreign powers, in order to obtain information, or to derive ſome other advantage to his country from their treachery; let him conſider what his own feelings would be, were a ſimilar offer made to himſelf; and, by the reſult of that conſideration, be admoniſhed to reverence and to apply the univerſal

(*d*) The money employed for ſecret ſervice at home may not exceed 10,000l. per annum. The ſum to be employed for ſecret ſervice abroad is not limited by law: but the Secretary of State for the foreign department acts, in diſpoſing of it, under the reſponſibility of an oath.

precept

precept of Chriſtianity, never to do evil for the ſake of attaining even the moſt laudable and beneficial ends.

From principles of duty, which in this and in almoſt every other inſtance evidently goes hand in hand with policy, he will rather ſtimulate his co-adjutors to a diligent performance of their reſpective functions, than ſeek to aſſume to himſelf conſequence and credit by intruding into every province and department. Nothing excites more jealouſy and ill-will than this meddling ſpirit; or more ſpeedily extinguiſhes that official emulation, from which, if properly cheriſhed and directed, the higheſt advantage may reſult to the public ſervice. But let not caution to avoid the error under conſideration lead to the oppoſite extreme. It has been known to happen, when the Cabinet has conſiſted of many members, that thoſe among them who have been the chief conductors of the affairs of Government, being unwilling to ſeem to interfere in matters committed to the management of their colleagues, have abſtained, through a ſuppoſed point of honour, from making the enquiries

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which were abſolutely neceſſary to give them a comprehenſive knowledge of the ſtate and diſtribution of the public force, and of other particulars of prime importance.

4. In ſelecting and digeſting the meaſures which he is to bring forward, he will avail himſelf of every fit mode of obtaining previous information; and of guarding againſt thoſe objections which might either prevent the accompliſhment of the plan, or impede its ſucceſs when eſtabliſhed. He will carefully ſubdivide his work, and allot different branches of inveſtigation to able and confidential men; enjoining them however to lay the reſult before him for his cool conſideration and final judgement, before a ſingle ſtep be taken to carry the project into execution. At all times this precaution is requiſite, to ſecure him from ſuddenly finding himſelf reſponſible for a meaſure which he diſapproves: but it is altogether indiſpenſable, when the friend whom he has employed is a comrade in office, and one who differs from himſelf in ſome leading principle of politics; leſt, having advanced blindfolded, he ſhould be aſhamed to recede when his eyes

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are opened; or, if he ſhould honeſtly dare to draw back, ſhould incur the degrading imputation of raſhneſs, of inconſtancy, or of acting in repugnance to his promiſe and his conviction.

In like manner, and under the ſame previous injunctions, he may with great advantage direct ſome intelligent friends to ſit as a Grand Jury on each of the numerous ſchemes continually ſuggeſted to him; whoſe verdict may either throw out the Bill, or pronounce the matter deſerving of a cloſer enquiry.

He will ſtudy the genius, the temper, the opinions, the prejudices, and the habits of the various claſſes of the community. A circumſpect regard to theſe particulars, attainable only by an habitual and intimate acquaintance with them, is of extreme importance towards enabling a Miniſter to deviſe and eſtabliſh meaſures of general utility; to correct inveterate evils; to palliate what he cannot cure; to diſtinguiſh what is practicable from what is impracticable; and to frame proviſions by which a plan, deemed of the latter deſcription

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by hafty and fuperficial obfervers, may at length be proved to belong to the former.

He will be defirous rather of a good name than of a great name. In choofing his objects he will act, not with an eye to their temporary luftre, but with a fyftematic attention to their intrinfic worth. He will not confider the wealth of the Nation as of greater moment than its virtue; nor its grandeur than its happinefs. He will fearch into the various openings for improvements of every kind, which the circumftances of the different foreign poffeffions belonging to Great Britain may afford. In recommending to public encouragement, arts, fciences, and national inftitutions, he will give a decided preference to thofe which evidently have a moral tendency, over thofe which are calculated only for the ornament and embellifhment of life. He will not ftrive to raife to an unfair pre-eminence in the public efteem, nor to promote at the expence of general good the objects lying immediately within his own department. But whatever meafure his duty requires him to purfue, he will purfue uniformly and confiftently;

ſiſtently; and not, as is the practice of ignorant, ſlothful, and unprincipled Miniſters, by feeble and timid expedients. And finally, he will never be deterred from laying the foundations of an uſeful plan, by foreſeeing that in all probability he may be diſmiſſed from office before half the ſuperſtructure is erected; and the credit of the whole fabric be transferred to his ſucceſſor, and perhaps his enemy, who ſhall complete it.

5. A good Miniſter will not forget the temptations, to which the experience of different ages and countries proves that he will be expoſed, of conceiving himſelf leagued on the ſide of the Crown againſt the People; and intereſted to extend beyond its due limits that prerogative of which he reaps the immediate advantage. After purifying his own mind from thoſe pernicious errors, his next anxiety will be to eraſe any correſponding impreſſions which may have been made on the breaſt of the Sovereign. He will behave to his maſter with reſpect, but without ſervility. He will communicate with him as freely as prudence will poſſibly permit on all public affairs; but while he renounces every attempt or wiſh to

cripple

cripple him in the proper exercife of his conftitutional powers, he will not tamely comply with the inclinations of the King in oppofition to his own conviction. He will remember that his country looks upon him as the author of the counfels of the Crown; and, whatever be the proceeding, pronounces him refponfible. Far from exafperating the Royal bofom againft the oppofers of the meafures of Government, he will ftudioufly feek to allay every degree of unjuft irritation which their conduct may have excited; and, inftead of aggravating the caufe of offence by fecret and calumniating mifrepresentations, will liberally give them the credit and the praife, wherever it appears to be deferved, of acting from upright, though erroneous motives; and where the motive cannot be clearly inveftigated, will point to the fide of charitable conjecture. He will confider himfelf bound to act towards his mafter the part of a judicious friend, in giving him faithful and unreferved advice on all matters in which he conceives that his interpofition, though not ftrictly required by official duty, will conduce to the welfare of the country at the head of whofe affairs he is placed. Confcious that Kings feldom hear the voice of truth, and are expofed

poſed by their ſituation, however pure their intentions may be, to peculiar and numberleſs diſadvantages; he will regard himſelf as under a general obligation to remove, if he may be permitted to remove, the veil of prejudice and deluſion; and to exert whatever influence he may have acquired over the Sovereign in inſpiring him with patriotic deſires, and kindling in his breaſt a predilection and zeal for the promotion of civilization, liberty, juſtice, and religion, at home and abroad.

6. In Parliament a Miniſter ought to be armed with that calmneſs of temper, the reſult of ſober reflection and conſcious innocence, which may enable him to bear with compoſure the provocations which he muſt expect to experience. He will habituate himſelf to diſtinguiſh, whenever an opportunity preſents itſelf, between ſuch of his opponents as encounter him, though ſyſtematically, from upright motives; and ſuch as are actuated by views of ſelf-intereſt, or the impulſe of factious reſentment. He will not charge the latter with their fault; but will avow his opinion of the former. He will invariably reſiſt that deſtructive enemy of

of good government, of public and private virtue, the ſpirit of party. Yet, in the midſt of his moſt vigorous efforts, he will proceed with that circumſpection and warineſs which are neceſſary in the attack of a foe ſo ſtrongly intrenched; of an uſurper who has impoſed his authority on innumerable adherents, and ſeems even to have eſtabliſhed his throne in their hearts. He will not harbour unreaſonable ſuſpicions againſt neutral Members of Parliament; nor heſitate to cheriſh independence, by publicly aſcribing to their intentions and conduct the credit which they appear to deſerve. Much leſs will he afford room for his ſupporters to conclude, that he feels gratified when they ſeize ſome favourable inſtant of giving vent to their treaſured inveteracy againſt thoſe, who profeſs to be unconnected with either ſide. In ſuſtaining the aſſaults of his antagoniſts, he will preſerve a due medium between the impenetrable ſilence of diſdain, and the soreneſs of diſtempered ſenſibility. In detecting inconcluſive arguments, in repelling unfounded imputations, he will not allow himſelf the baſe ſatisfaction of unjuſt or acrimonious retorts on his opponents. Anxious, by

the accomplishment of his plans, to promote the public good, he will be cautious not to lessen his chance of success by exasperating his adversaries to unremitting and virulent resistance, for the sake of gratifying his vanity by a short-lived triumph, or indulging the angry feelings of the moment in a sharp reply. He will remember that nothing is so irritating as affected contempt. He will remember that consistent simplicity and frankness, combined with approved disinterestedness and ability, with the aid of an unruffled temper and conciliating manners, will charm down even the rage of Party. Nor will he forget that the time may come, and perhaps ere long, when the welfare of his country may indispensably require him to unite with some of those very men, who are now drawn up in array against him. He will therefore beware lest by his indiscretion he should make the breach so wide, that the resentment of the individuals concerned will render it almost irreparable; or that the public feelings will revolt at the idea of its being closed, and prevent him from ever being able to convince the Nation that the union could be dictated by virtuous principles.

He will not be deterred, by a dread of the trouble and riſk of a conteſt with Oppoſition, nor even by the apprehenſion of general unpopularity, from bringing forward any propoſal which he deems, on a ſerious and impartial review of all the circumſtances of the caſe, conducive to the public intereſt. He will never decline to interweave into his plans an improvement ſuggeſted by his enemies, from a fear leſt they ſhould arrogate to themſelves the merit of the whole; nor will he reject or diſcountenance uſeful Bills introduced by them, from an unwillingneſs that the ſucceſs of the meaſure ſhould raiſe the propoſers of it in general eſteem. He will never ſupport the unwiſe or iniquitous project of a colleague in office; nor be led, on principles of *honour*, to defend it, notwithſtanding his conviction of its demerit, after it has been carried into effect. Miniſters have been known publicly and in unqualified terms to applaud thoſe very meaſures of a co-adjutor, which they have freely condemned in private; and to applaud them with warmth increaſing, as it ſhould ſeem, in proportion to their conſciouſneſs of the weakneſs of the defence. An upright Miniſter will not impro-

improperly ſubmit to the popular cry and ferment of the day; nor ever give his ſanction to what is radically immoral and unjuſt, however loudly it may be demanded by the voice of the Nation. If a ſudden emergence requires him, in conformity to the diſcretion afforded him in certain caſes by the ſpirit of the Britiſh Conſtitution, which deems particular laws ſubordinate to the general ſafety, to tranſgreſs the letter of exiſting ſtatutes; either in adviſing the iſſuing of royal proclamations; in the application of public money, or in any other inſtance; he will at once ſtate the proceeding to Parliament, and aſk for indemnity. He will not wait to be dragged before the tribunal of the public, and diſgracefully compelled to accept from his enemies, as a boon, what he might have claimed as a debt from national gratitude. In propoſing taxes, rules of internal police, financial or commercial regulations, thoſe eſpecially which involve a multiplicity of oaths, he will not be more attentive to the proſpect of revenue, than to the liberty, the comfort, the manners, and the morals of the people. He will not impede the reform of Public Inſtitutions and Eſtabliſhments, nor of Parliament itſelf, from an ap-

prehenſion left his miniſterial patronage and influence ſhould thus be reduced. He will maintain and act on the principles which he has formerly maintained, as long as he continues perſuaded of their ſolidity; but if he ſhould ceaſe to believe them true, he will manfully avow the change in his ſentiments, and the train of reaſoning by which it has been effected. He will never ſuffer falſe ſhame, or a miſtaken point of honour, to detain him in a wrong path, even though by abandoning it he ſhould incur the charge of inconſiſtency.

For the ſake of his own character, as well as on principles of general utility, he will be deſirous, on every ſeaſonable occaſion, to draw aſide that myſterious veil which commonly envelops the Stateſman, and by the promiſe of concealment encourages him to criminality. He will ſtudiouſly ſet an example of that ſyſtem of publicity, which Miniſters ought to be univerſally anxious to adopt; and which his ſucceſſor in office may find means of avoiding, unleſs conſtrained to obſerve it by the authority of precedent. He will not involve his country in danger by unſeaſonable diſcloſures to Parliament, from the dread of ſubjecting

himſelf

himſelf to the miſrepreſentations of his enemies. But he will be prompt to communicate to either Houſe, without ſolicitation or delay, whatever he conceives may ſafely be laid before it; and whatever he deems himſelf for a time obliged in prudence to withhold, he will afterwards ſpontaneouſly and explicitly reveal. He will never refuſe information through party ſpirit, through jealouſy, through pride, through pique, or through reſentment. Far from regarding the ſuperintendence of Parliament as burthenſome, or wiſhing to obſtruct by open reſiſtance, or to elude by ſubterfuges and evaſions, the exerciſe of its inquiſitorial control; he will rejoice that its vigilant ſolicitude, however occaſionally attended with ſymptoms of unneceſſary diſtruſt and apprehenſion, is employed in confirming him againſt temptations to miſconduct, and in correcting the errors of his judgement. At all times, and under every circumſtance, he will acknowledge and ſincerely rejoice in his reſponſibility.

The ſame principles of integrity and candour which guide his conduct in his parliamentary capacity, will not be laid aſide in private. He will entertain no animoſity

against a friend who has occasionally withheld, or has altogether withdrawn his support; nor will he ascribe to indirect views what may fairly be attributed to conscientious conviction. He will uniformly discourage in his adherents the disposition, too often found in servile and little minds, to blacken the private characters of their political antagonists, and of neutrals held in still greater abomination; and will embrace every occasion of doing justice to their worth. He will beware of exciting suspicion by ill-timed and inconsiderate expressions, or by any instance of active conduct, that his professions of patriotism, of zeal for liberty, of disinterested solicitude for the public good, are merely his exterior garb; a sort of robe of office; a dress to be worn in Parliament, which, while it dazzles the beholders with its glaring brilliancy, conceals the real form and lineaments of the wearer.

7. In all his transactions on behalf of Great Britain with foreign nations, he will scrupulously regard the rules of strict and equal justice; and, so far as the prior claim of his own country will admit, his benevolence and liberality will seek for a field of operation in every

other. The influence of theſe principles will be particularly manifeſt in his caution with reſpect to the commencement and prolongation of wars. Conſcious that ſelf-defence, or the defence of the juſt cauſe of an ally, is the only ground on which hoſtilities can be vindicated; conſcious too that however proſperous the event may be, little benefit will reſult to the thouſands by whoſe exertions, wounds and ſufferings it has been purchaſed; and that however apparent may be the guilt of the Governors of the enemy, the puniſhment of it chiefly falls on their ignorant and unoffending ſubjects: he will never enter into a conteſt without a firm conviction that it is both equitable and neceſſary; nor ever continue it a moment after reaſonable reparation and ſecurity can be obtained. In forming a treaty of alliance, he will explain his ſentiments on theſe topics with the utmoſt perſpicuity; and will never pledge his country to any meaſure which ſeems likely to lead her in the end to become an accomplice in the ambitious views of her confederates, by ſupporting them in unprovoked wars; or to comply with the ſuggeſtions of their revenge or their timidity, by continuing to proſecute wars originally indiſpenſable,

after proper terms of pacification have been offered or would be accepted by their adversaries. He will gladly employ the good offices of his country in mediating peace between contending powers abroad, without rashly endangering its own tranquillity. If, during his administration, he is called upon to fulfil an engagement with a foreign power, contracted by some of his predecessors in office, which he perceives to be radically unjust; whatever may be the hazard to himself, he will refuse to comply. For is not he apprized that justice, sanctioned alike by natural reason and revealed religion, pronounces every covenant void, whether entered into by an individual or by a nation, which opposes her inviolable and antecedent laws? The house-breaker, who has promised his assistance in a burglary; the assassin, who has engaged to perpetrate a murder; is he bound, is he at liberty, to perform the contract? Nations are in this respect individuals to each other. It is also to the nation, as well as to the individual, that Religion addresses her command: "Thou shalt love thy neighbour as thyself; and do unto others as thou wouldest have others do unto thee."

Attention

Attention to the claims of mutual benevolence, and to the general happineſs of mankind, will influence an upright Miniſter in adjuſting treaties of commerce with foreign countries; and prompt him to adopt ſuch regulations as may be practicable for mitigating the horrors of future wars. A ſpirit of univerſal good-will, ſtrengthened and rouſed to action by a ſenſe of Chriſtian duty, will lead him to promote the diſcovery of unknown regions, and the civilization of their barbarous inhabitants. Conſidering himſelf as the Repreſentative of the Public, conſidering the whole People as it were embodied in his perſon, and capable only through him of exerciſing an enlarged philanthropy; he will look through the world with a diſcerning and judicious eye, in order to ſelect proper objects to whom he may diſpenſe their charity, and pour out the overflowings of domeſtic proſperity and affluence.

III. Under this head we are, in the firſt place, to advert to the motives by which a Miniſter ought to be actuated in eſtimating the propriety of reſigning: and ſecondly, to the line of conduct to be adopted after his reſignation.

1. Regard

1. Regard to the public good difplaying itfelf in a fair and difinterefted examination of every circumftance of the cafe, will determine a confcientious Minifter with refpect to the duration of his continuance in office. Exempt from perfonal views, unbiaffed by folicitude for the aggrandizement of his family and friends, he will never feek to retain his poft by ungenerous acts and difgraceful compliances; nor refort to finifter means of rendering his affiftance neceffary to his Sovereign, or to his colleagues. Nor, on the other hand, will he relinquifh his ftation, from a dread of the odium or refponfibility attached to meafures in which he has acquiefced. He will not abandon a declining Miniftry with a view to returning into office, after a fhort interval, with the prevailing party. Neither will he feek, by refigning, or by threatening to refign, to embarrafs the proceedings of the Cabinet, through perfonal animofity towards fome of its principal members. He will not feel himfelf at liberty to co-operate with an Adminiftration whofe fundamental fyftem of policy he difapproves, whofe moft important meafures he is unable to fupport. He will not remain an inefficient fpectator of the progrefs of plans

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in the formation of which he is not allowed an influence proportioned to his refponfibility. He will not force his fervices on the public by the ftrength of his coadjutors and connections, if he perceives that, however generally his Fellow-minifters may be approved, he is himfelf unfupported by the confidence of the People. While his judgement and his confcience give their concurrence to the leading principles and proceedings of the other executive Minifters of the Crown, he will by no means think that differences of opinion on inferior points indifpenfably require him to fecede. Nor will he deem himfelf neceffarily obliged to retire by a parliamentary defeat, not even if it relates to a meafure ftrictly minifterial, while on the whole he feels himfelf ftrong in national approbation. In many cafes a fecesfion on either of thefe grounds would be altogether unwarrantable. It might effect the diffolution of a Miniftry, liable indeed to human error in particular inftances, yet eminent above their competitors in uprightnefs and wifdom; difcredited, it may be, by an occafional unpopular plan, but regarded by the country at large as the fheet anchor of its hopes. It might open the doors of office to ignorant, faithlefs,

and

and rapacious partisans; who, before they could be expelled, might overthrow the wisest institutions of their predecessors; might lay the foundations of their own future power by Acts of Parliament specially directed to that end, and by lavishing public money grants and reversions; or might even endeavour to secure the permanence of their present authority by involving the Nation in foreign and domestic broils.

A wise and conscientious man will not endanger his character by continuing to bear a part in an Administration, which labours under a general stigma of corruption or imbecility; unless he be able to rescue himself from the charge, and to preserve that confidence and esteem of the community, which are alike essential to the success of his present and future exertions in its service. Yet he will not on the other hand be such a niggard of his fame, as to be unwilling to submit to the risk of some temporary odium; of some specious imputations, even, it may be, on the moral rectitude, as well as on the wisdom of his conduct; if by that risk he can purchase the success of some momentous undertaking, and convert personal

uneasiness

uneaſineſs into a ſource of happineſs to his country.

He will not deem the care of his health and private concerns an excuſe for any degree of remiſſneſs in attending to the duties of his ſtation, unleſs ſuch remiſſneſs was allowed by competent authority previouſly to his acceptance of the office, or as ſpeedily afterwards as it took place; and adequate proviſions were adopted to prevent any injury reſulting on the whole from it to the public ſervice. But if thoſe proviſions failed to anſwer the end propoſed, he will feel it his duty to deviſe an effectual remedy, or immediately to reſign his poſt. It is poſſible in particular emergences that the public ſervice may inevitably ſuſtain ſome degree of detriment by his continuance in office, and yet a leſs than it would receive from his reſigning at the moment. In that caſe, if clearly recognized by the proper judges, he may conſcientiouſly retain his ſituation while the emergency ſubſiſts.

When he is once perſuaded, on balancing the arguments on both ſides, that duty ſummons him to retire, he will obey the call with alacrity

alacrity and cheerfulneſs; and will not cling to his office with that ſtubborn pertinacity, which argues a man unworthy to hold what he ſhews himſelf ſo reluctant to quit.

2. When diveſted of his employment, whether he withdraws from the buſy world into the ſhade of privacy, or continues to ſerve his country as a Member of Parliament; he will arm his breaſt againſt the ſtings of unſucceſsful ambition; and purify it from every emotion of bitterneſs and reſentment againſt thoſe who occaſioned or who have profited by his fall. If he continues to act his part on the political ſtage, he will be on his guard againſt the bias of a ſecret hankering after emolument and power, uſually predominant in thoſe who have once been in poſſeſſion of high official ſituations, and the moſt predominant in thoſe who have occupied them for the longeſt time. He will not frame his parliamentary conduct with an inſidious view to regain the eminence from which he has been caſt down; he will not ſeek popularity by diſingenuous artifices; he will not hoiſt a ſtandard to collect the diſcontented, nor preſent himſelf as a leader to the factious. He will ſupport, from his heart, every

every meaſure of his ſucceſſors which promiſes to promote the general welfare; however evidently it may contribute to raiſe them in the public eſtimation, and conſequently to obſtruct the return of himſelf and his friends to the helm of Government. When their proceedings are unjuſtifiable and unwiſe, he will oppoſe them with ſteady perſeverance; but ſo as to prove that he oppoſes not the Members, but the Politics of Adminiſtration. He will reflect that his country, though no longer entruſting him with the ſupreme direction of her affairs, regards him, in conſequence of the ſtation which he has filled, as in ſome meaſure the appointed inſpector and ſuperintendant of the preſent Miniſters. The duties of that honourable employment he will vigilantly and faithfully diſcharge. But he will diſcharge them as a public ſervant exerciſing a public truſt. He will not haraſs his competitors, victorious in the conteſt for popular favour, with vexatious and unmerited oppoſition; nor, by thwarting their views and obſtructing their plans, revenge on the Nation at large his private wrongs and his private diſappointments.

CHAP.

CHAP. VIII.

ON THE DUTIES OF NAVAL AND MILITARY OFFICERS.

THAT an individual may resort to the use of force in behalf of himself, or of others not averse to receive his assistance, when force is necessary for the purpose of repelling or of preventing oppression, or of obtaining reparation for injuries sustained, is one of the fundamental principles of morality suggested by natural reason. It is a principle which may be applied separately and successively to the case of every individual; and, consequently, to the individuals composing a Nation. Hence appears the natural right of a Nation to enter, under certain circumstances, into a war against other Nations in support of its own rights, or of the rights of other communities whom it undertakes to protect. Hence too appear the limits by which that right is naturally circumscribed. Neither the unconnected

nected individual nor the Nation is authoriſed to employ force, until peaceable applications for redreſs have been fully tried, and found ineffectual; nor to perſiſt in the uſe of it, if a fair probability appears that the renewal of negotiation would prove ſucceſsful; nor to carry it further than is requiſite for the purpoſe of obtaining reaſonable indemnification and ſecurity. Farther, as no man by becoming a member of a Community, or by any other ſtep, can exempt himſelf from the natural obligation of benevolence; the Nation, conformably to the motives which conſcience would ſuggeſt to the individual, is bound in point of moral duty to relax, as far as a prudent regard to ſafety will permit, in the claims which in ſtrict juſtice it might impoſe on its adverſaries, when an end may thus be put to the conteſt; rather than by rigorouſly puſhing its equitable demands to the utmoſt, to introduce or prolong the calamities of war. It is true that many reaſons may exiſt, which may render it impoſſible that the ſame degree of forbearance which might take place without danger in the caſe of two individuals, whether unconnected by ſocial ties, or belong-

ing to the ſame Community, can be ſafely ſhewn by one State towards another. The real characters and deſigns of the Governors of the adverſe Nation cannot be thoroughly known; thoſe Governors may ſpeedily give place to others leſs known; experience juſtifies the concluſion that policy and intereſt, rather than good faith and duty, will be found to guide the conduct of them all; the magnitude of the intereſts involved, at leaſt the multitude of perſons who ſhare in them, renders caution and ſteady firmneſs peculiarly requiſite. But though theſe and other ſimilar arguments indicate the hazard of unwarily receding from neceſſary demands; they are far from proving that no forbearance is to be ſhewn by one State towards another, or that much more forbearance ought not to be ſhewn than is commonly diſplayed.

It has been ſatisfactorily demonſtrated by other writers, that Chriſtianity does not impair the natural right of ſelf-defence; that John the Baptiſt's admonition to the ſoldiers, "to be "content with their wages," implied their continuance in the legion; that Chriſt rewarded

warded the faith of the Centurion without reproving in the slightest degree his known profession; that Cornelius, the first of the Gentile converts, received no direction from St. Peter to quit the army; and that the seemingly passive precepts of the Gospel, not to resist injuries, when smitten on one cheek to turn the other, when robbed of our coat voluntarily to give our cloak also, and any similar declarations, are to be understood by us as they would assuredly be understood by Christ's hearers, accustomed to the figurative mode of teaching prevalent in the East; namely, as prohibiting every species of injustice, malice, and revenge, and as inculcating the purest principles of benevolence and forbearance; but as permitting, under the influence of those principles, the repression of serious injuries by force, when nothing short of force would be effectual.

War then, in certain emergences, being admitted to be no breach of Moral or of Christian duty, we are now to consider the duties of those who are to carry it on.

Officers employed in the defence of their

 country,

country, whether by ſea or by land, whether in a higher or in a lower ſphere, are expoſed to many ſimilar temptations, and called to the performance of the ſame moral duties. It is of thoſe temptations and duties common to the naval and military profeſſion that the preſent chapter is deſigned to treat. And ſuch of the ſubſequent remarks as are not obviouſly reſtrained to particular deſcriptions of men, are meant to be applied generally to perſons in either profeſſion, whatever their rank and ſtation may be.

The obſervations about to be advanced reſpecting the moral duties of an Officer will of courſe be free from all reference to profeſſional tactics, and will be confined to the following particulars: uprightneſs and activity in diſcharging the immediate functions of his ſtation; his general conduct towards thoſe under his command; his proceedings towards enemies, and the ſubjects of neutral powers; and his conduct in private life.

I. Whatever be the line of ſervice or the rank in which an Officer is placed, the moſt obvious

obvious of all the moral obligations thence incumbent on him is that of faithfully performing the immediate duties of his poſt. A man of integrity and reflection will bluſh to receive a ſalary from the public, without making that return to his country, which, by accepting his commiſſion, he has pledged himſelf to render. He will therefore apply with aſſiduity and perſeverance to the ſeveral branches of military or naval ſervice, in which his ſtation requires him to bear a part. He will not think it ſufficient barely to attain to ſuch a degree of proficiency in the duties of his department, as may ſecure him from the reprehenſion of his ſuperiors. He will not be contented with acquiring that facility in practice which is the reſult of habit; and neglect the ſtudy of the theoretical and ſcientific principles of his profeſſion. He who regards his occupation as a mere mercenary trade, will aim only at doing what is abſolutely neceſſary, and at doing that by rote. But he who is ſtedfaſtly bent on diſcharging his duty to God and man, and, in due ſubordination to that predominant deſire, wiſhes to diſtinguiſh himſelf by genuine merit in his profeſſion, will be ſolicitous to be prepared for

the various and ſudden contingencies by which an Officer may be overtaken in the viciſſitudes of war; and to be able to adapt the fundamental rules of the ſervice to unforeſeen and critical emergences. He will reſolve to conſider himſelf through life as a learner. He will not diſregard the advice and ſuggeſtions of Experience, though they proceed from a perſon of rank inferior to his own. Too wiſe to contract a fondneſs for novelties only becauſe they are new; he will ſhun the oppoſite extreme, more common among profeſſional men, of pertinaciouſly adhering to antient practices, and reſiſting rational and ſeaſonable improvements. He will ſtudy ſtrict method in all branches of employment, as the only means of having buſineſs done well, at the cheapeſt rate, and in the ſhorteſt poſſible time. The latter circumſtance is often eſſential to the ſucceſs of warlike operations; and in many caſes, as when troops encumbered with ſtores and baggage are to be removed from an approaching ſuperiority of force, or a fleet is to be repaired in an inſecure or unhealthy harbour, the delays which reſult from a confuſed and unſettled mode of pro-

ceeding

ceeding may occaſion the loſs of multitudes by the ſword or by diſeaſe. A good Officer will not truſt to the inſpection or agency of another what he ought to examine or conduct in perſon. Inſtead of declining what is actually comprehended within his own province, he will explore its utmoſt limits for proper opportunities of acquiring additional knowledge and ſkill, and of improving himſelf in all the different functions which he may be called upon to diſcharge. By accuſtoming himſelf on common occaſions to alertneſs and activity, he will prevent greater exertions in more critical ſeaſons from being difficult and oppreſſive to him. Habits of careleſſneſs once contracted are continually encroaching more and more; and, though at firſt extending only to trifles, gradually draw matters of the higheſt moment within the ſphere of their influence. And whenever, by being unwarily indulged, they ſettle into confirmed indolence; they become the ſources of every ſpecies of profeſſional demerit, and of every kind of vice.

In the purchaſe and expenditure of proviſions and ammunition, and in every inſtance

when public money, or what is procured with public money, is committed to the diſpoſal of an Officer; he is bound not merely to exhibit an example of the moſt ſcrupulous integrity, but alſo of every degree of œconomy compatible with the public good. Opportunities of fraud will frequently occur, eſpecially on detached expeditions and remote ſtations, to thoſe who are inclined to make uſe of them. The ſums which in ſome former wars have been purloined from this country by peculation, or loſt to it by negligence and miſmanagement, are ſaid by thoſe who have had ocular demonſtration of the facts to be far more enormous than is generally imagined. Fraud however, or colluſion, practiſed to the injury of the public by men in offices of truſt, is certainly not leſs ſinful than ſimilar proceedings towards private individuals. And a neglect of due ſuperintendence over ſubordinate managers of public ſtores is highly blamable in any one to whom that ſuperintendence is committed (*a*).

In

(*a*) By the cuſtom of the Navy, every kind of ſtore is in charge of the particular warrant officer to whoſe department it belongs. Ordnance ſtores, for example, are under the

In every branch of profeſſional conduct an upright Officer will ſteadily fix his attention on the public good; and regard himſelf as bound to promote it by all honeſt means and to the utmoſt of his power, as far as his department extends. By this rule, and not by the

the charge of the gunner; carpenter's ſtores under that of the carpenter; cordage, ſails, &c. under that of the boatſwain. Nothing is expended for the uſe of the ſhip without an order, and without its being regularly entered in a book, which ought to be examined monthly by the captain and maſter, and vouched by their ſignature. The officers however, to whom ſuch valuable ſtores are entruſted, are often extremely illiterate, and unable to write. Their accounts therefore, unleſs regularly examined, are not to be depended upon. Yet, as I am informed from the very firſt authority, it is not unuſual with captains to defer the examination of them for months, perhaps till all traces of the tranſactions are loſt, and to ſign them without enquiry. Inſtances of habitual diſhoneſty, by which the public is plundered to a very large amount, of courſe occur among warrant officers, as among men of other profeſſions. And the temptation is ſo great, that many who ſet out with upright views are found ultimately to give way to it. Theſe conſiderations ſtrengthen the obligation to attention and vigilance on the part of the ſuperior officers. The uſage too of the ſervice is ſuch as to have a tendency to enſnare men of every diſpoſition. Thus, if a captain wiſhes to have his ſhip ſupplied with a larger proportion of any particular

the ſuggeſtions of private inclination or convenience, he will conduct himſelf whenever the orders of his ſuperiors leave him to the exerciſe of his own diſcretion. When thoſe orders are preciſe and poſitive, he will implicitly conform to them. Prompt and punctual obedi-

ticular kind of ſtores, for uſe or ornament, than is allowed, he can cauſe an exchange to be made, whenever the ſituation of the ſhip will admit; and, by expending ſome articles which he does not greatly want, can procure what is more deſirable to him. This is frequently done without any intention of fraud; though there have been many inſtances wherein great frauds have followed. At any rate, the officer in whoſe charge the ſtores are placed, finding himſelf obliged to make his accounts tally with the captain's diſpoſition, inſtead of being drawn up according to the real expenditure, ſoon loſes that correctneſs which is neceſſary in ſuch accounts; and learns to take the ſame liberty himſelf, when it anſwers any ſelfiſh purpoſe.

The mode of conducting this part of the naval ſervice evidently appears to require alteration. The opinion of the Navy Board on this ſubject, and on all other ſubjects wherein the check of that Board is neceſſary, was delivered to the Board of Admiralty in the year 1783.

The facts ſtated in this note may ſuggeſt to the military officer ſome admonitions as to the duties incumbent on him in various circumſtances and ſituations in his own profeſſion, reſembling thoſe in the naval line which have been mentioned.

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ence to lawful authority is the foundation of military excellence. Whether the order comes from a ſuperior reſpected for his experience and talents, or from a raw youth raiſed by connections and intereſts over the heads of his older and more deſerving competitors; whether it proceeds from a perſon endeared to him who receives it by acts of kindneſs and friendſhip, or rendered obnoxious by injuries and diſſenſions; it is to be obeyed with equal alacrity. Indeed, it is ſeldom if ever found that perſonal motives, ſuch as have been recited, bias the conduct of officers in ſubordinate ſtations. The public ſervice, however, has frequently ſuſtained great detriment from the jealouſies and animoſities of rival commanders. And it has repeatedly happened, that when a General and an Admiral have been joined in a common expedition, and thus made in ſome meaſure dependent on each other, they have been very blamably ſet at variance by a difference of ſentiment reſpecting the plans to be adopted; a difference aggravated by partiality to their reſpective lines of employment and cuſtomary modes of operation. The only circumſtance likely to ſeduce inferior

inferior officers from an active obedience to those of higher rank is the spirit of party; which combining professional with political considerations, has sometimes been powerful enough to invade almost every individual in a fleet or army. It is recorded of Admiral Blake, that when he was employed in the middle of the last century in the wars against the Spaniards, he continually inculcated on his Captains the duty of combating with unabated exertions the foreign enemies of the State; whatever might be their own private opinions and wishes as to the civil broils which divided their countrymen at home, or the persons into whose hands the Government had devolved. If this observation was just in the case of internal dissensions of such magnitude as those which at that period agitated Great Britain; it may surely be applied with additional force to those party conflicts on topics of far inferior importance, which in the present settled condition of the Constitution of this kingdom are, we trust, the only party conflicts likely to arise.

It has been already observed, that the obe-

dience which is the duty of an Officer is prompt and punctual obedience to *lawful* authority. This ſtatement implies that the thing commanded muſt be lawful; for otherwiſe the authority which preſumes to enjoin it is ſo far unlawful. Were an Officer then directed by his ſuperiors to do what is contrary to the received laws of War and of Nations; to the laws and inſtitutions of his country; or to the laws of God; his compliance with the order would be criminal. Theſe limitations are the more neceſſary to be impreſſed on the reader, as the habits of military diſcipline, and of that indiſcriminate ſubmiſſion which in the common routine of ſervice is highly meritorious, have frequently enſnared the underſtanding and the conſcience; and have led Officers to perpetrate, under falſe conceptions of duty, the moſt flagrant acts of injuſtice. He who would have rejected with indignation and abhorrence an order from his chief to rob a ſingle traveller on the highway, heſitates not to bear a part at his direction in attacking an unoffending Nation, ravaging its territories, burning its towns, maſſacring its defenders, and reducing thouſands, perhaps millions, of inno-

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cent men into bondage. The former partition of Poland by the troops of Ruſſia, Auſtria, and Pruſſia, in blind obedience to the iniquitous commands of their Sovereigns, and a ſucceſſion of recent events in that unhappy country of a ſimilar nature, are two out of many examples which prove the neceſſity of an Officer's ever bearing in mind the rule which has been ſtated. Let him remember, that whatever deference he may owe to the Government under which he lives, and to the commanders to whom he is ſubordinate, his firſt ſubmiſſion is due to his Maker. Let him remember, that no human authority can change the eternal diſtinction between right and wrong; or be pleaded in excuſe by any man for committing what his conſcience deliberately diſapproves. If he is ordered to cooperate in any unjuſtifiable undertaking, let him at all hazards refuſe to comply. And if not only the loſs of profeſſional honours and emoluments, but ſevere puniſhment and even death itſelf ſhould ſtare him in the face in conſequence of his refuſal; let him not forget the unequivocal directions which his Saviour and final Judge has already addreſſed to all who are

reduced to the alternative of offending God or Man. "Fear not them which kill the body, "and after that have no more that they can do. "But I will forewarn you whom you ſhall "fear; fear him, who, after he hath killed, "hath power to caſt into hell: yea, I ſay un- "to you, fear him." Luke, c. xii. ver. 4, 5.

From theſe conſiderations it follows, that every individual Officer, who is called into active ſervice, is bound to inveſtigate the juſtice of the war in which he engages, to the utmoſt extent of his abilities and information. He is not precipitately and on ſlight ſurmiſes to relinquiſh the poſt in which Providence has placed him. If the matter appears ambiguous, and his moſt careful reflection and enquiries leave him ſtill in doubt; ſomething may very properly be conceded, and more or leſs according to the circumſtances of the caſe, to the opinion of thoſe, who have better opportunities than he poſſeſſes of knowing the real origin and grounds of the conteſt. The lower his rank is, the leſs likely is he to have opportunities of acquiring knowledge on the ſubject, which can reaſonably be oppoſed to the judgement of men in higher ſtations. Whatever be his

his rank, let him remember that the knowledge which he has acquired muſt probably be in ſome points defective; and exerciſe his judgement with modeſty and candour. But, after making all becoming allowances for unknown circumſtances, if he ſhould be thoroughly convinced that his own country is the culpable aggreſſor in the quarrel, or ſhould deem the probability to be very greatly on that ſide; it is his indiſpenſable duty to reſign his employment, whatever falſe honour, or perſonal and intereſted motives, may ſuggeſt to the contrary. Will it be ſaid that it is his part to obey, and leave the State to anſwer for the guilt? This is not the argument of a conſiderate man, or of a Proteſtant. Reaſon and Scripture are equally outraged, whether it be a State, or a Pope, that requires to have the management of the conſcience of the ſubject. The State, on whatever principles it may claim his obedience, cannot exempt him from that which he owes to his God (*b*). And ſhould the naval or military Officer

(*b*) Caſes may occur in deſpotic Governments, which I truſt never will in ours, when it might be the duty of an Officer to reſign his poſt, though ſatisfied as to the juſtice of the war; namely, when the means uſed to procure ſucceſs involved dreadful ſeverities neither neceſſary in themſelves,

Officer decline on the plea of confcience to undertake the fervice enjoined; there feem to be no grounds, if the fincerity of his plea can be afcertained, on which his difcharge can be refufed; nor any, if it fhould be refufed, on which his compliance (*c*) can be juftified.

An Officer charged by an Adminiftration, to whofe political proceedings he is adverfe, with the conduct of an expedition by fea or land, ought to be conftantly aware of the temptations to which he is expofed in confequence of the difference of fentiment between himfelf

themfelves, nor compatible with the common feelings of humanity. Thus, when Louis XIV ordered the Palatinate to be laid wafte, it may be queftioned whether an officer employed on the expedition ought not in confcience to have refigned, though he believed the war to be in the main juft on the fide of France, rather than to have borne a part in fuch horrors.

(*c*) The Britifh laws fhew in feveral inftances a very laudable attention to the confcientious fcruples of particular claffes of fubjects; and exempt them either altogether, or as far as is deemed confiftent with the public good, even from the common obligations and duties of citizens, when the parties ferioufly believe that the performance of them would be contrary to their duty to God. Thus Quakers, who deem an oath unlawful, are allowed to give evidence in civil cafes on their fimple affirmation; and for a fimilar reafon are exempted from bearing arms.

 and

and his employers, and in proportion as that difference has been actively ſhewn in Parliament, or elſewhere. It is not ſufficient that he exerts himſelf faithfully to promote the undertaking which he is ſent to accompliſh. Let him act with fairneſs to Miniſters, and judge with candour of their behaviour towards him. Let him not ply them with unneceſſary demands through a ſuſpicion of their unwillingneſs to ſupport him, and a deſire to prove how far they will liſten to his applications. If he is diſappointed as to receiving ſupplies, or denied what he deems no more than a proper reinforcement; let him not haſtily conclude without further grounds that he is purpoſely neglected or ſacrificed. Let him remember that the diſappointment may have ariſen from the uncontrolable power of the elements; and the denial from a conviction that the additional force was needleſs, or could not be afforded without abandoning an object more intereſting to the public. And towards his political friends let him obſerve, as ſcrupulouſly as the moſt cautious of thoſe who employ him could wiſh, an impenetrable ſilence with reſpect to every particular of the meaſures which he is to purſue.

2. We

2. We proceed to the general conduct of an Officer towards thoſe under his command.

The duty of training up the inferior Officers and private men to active ſervice, and inuring them by inſtruction and exerciſe to habits of diſcipline, may not improperly be conſidered as having been comprehended under the preceding head. But the ſucceſs of an Officer in diſcharging that duty will greatly depend on his cuſtomary behaviour towards all who are ſubordinate to him; and on his paying that unremitting regard to their welfare, which the good of the ſervice demands, and the principles of morality enjoin.

His brother Officers placed under his control let him treat with liberal and engaging attention. Let him ever be ready to do them acts of kindneſs, and to facilitate, by his advice and aſſiſtance, their purſuit of profeſſional knowledge. Let him preſerve over them the authority which his ſtation gives to him, and the intereſts of diſcipline require him to maintain; but let him not encroach on their rights by exceeding the limits of his juriſdiction; nor

render himſelf and the ſervice odious to them by a rough and overbearing deportment. Let him remember too, that ill-uſage from a ſuperior leads thoſe who ſuffer it to retaliate on others below them; and that they who have been moſt accuſtomed to crouch under tyranny, have become the greateſt tyrants in their turn. Beſides, if the Midſhipman is treated with inſolence by his Captain, or the Enſign by his Colonel; how ſhall the Sailor and the Soldier reſpect them? And if they reſpect them not, ſubordination and obedience are at an end. If there be any Officer who has a claim rather than another to the countenance and protection of his Commander; it is he who, having riſen by his deſert from an humble ſtation, finds himſelf treated with ſcorn and neglect by his aſſociates vain of their birth and accompliſhments, though deſtitute of his valour, abilities, and experience; or he who entering into the ſervice in the opening of youth, perhaps even before the years of childhood are terminated, requires additional inſtruction (*d*) on many important ſubjects;

(*d*) "The above-mentioned boy, with four others, comes "into

ſubjects; and unleſs guarded by the counſels and ſuperintending care of a Superior, will in all probability be ſeduced into habits of vice by the example, or the ridicule, of unprincipled companions.

An Officer ought ſtudiouſly to beware of talking frequently and largely of himſelf and his exploits. This cuſtom, if indulged, will

"into my cabin every morning. After having read the "pſalms and goſpel leſſon, they have two hours of inſtruc-"tion from a young man whom I have on board, a good "teacher of arithmetic, mathematics, &c.; and alſo from "ſeven till half-paſt eight in the evening; ſo that they could "not be at a better ſchool. Their catechiſm too is attended "to. I think this ought to be a matter of conſcience with all "who have young people under their care. Had it been al-"ways, I believe we ſhould ſee the good effects in the world. "Ignorance is certainly one of the greateſt cauſes of infi-"delity. The effects of religious inſtruction are apparent "in theſe children. May God give his bleſſing to it!"

The preceding extract from a private letter written by a Captain of a man of war, whoſe ſervices have recently been rewarded in the moſt public and diſtinguiſhed manner by his Sovereign, and communicated to me by the perſon to whom it was addreſſed, ſhews that Captains have it very greatly in their power to promote the inſtruction of youth on ſhipboard; and that there are thoſe who do promote it in the beſt manner, and from the beſt motives.

gradually lead him to esteem himself too highly, and others too little; to detract from their merit; and occasionally to treat them with manifest contempt. It will contribute not less even than inebriety, or a captious temper, to entangle him in disputes and quarrels; and ultimately to involve him in the supposed disgrace of refusing a challenge, or in the positive sin of accepting it. To this embarassing alternative an Officer who conducts himself conscientiously and with prudence can scarcely ever be reduced. But if reduced to it, let him remember that it is embarassing merely in consequence of the mistaken ideas respecting honour prevalent in society; and not from any doubts that can be entertained as to what is required of him by the laws of his Creator. For what are the pleas of the Duellist for taking the cognizance of his cause into his own hands? That his country has not provided legal means of redress; or that disgrace will attend him either if he resorts to them, or if he suffers the matter to pass unnoticed. The former apology can rarely be alleged with truth when the offence is real and of moment. And, if admitted to be true, would it vindicate him for seeking redress

redreſs in a way which the law expreſsly forbids? The ſecond tends, as far as it obtains in practice, to ſubvert the empire of law univerſally, and to eſtabliſh caprice and prejudice paramount in its place. Further; do not the Scriptures enjoin obedience to the law of the land? Do not they alſo peremptorily prohibit murder? And do they not fix the guilt of murder on every attempt to take away life, otherwiſe than according to the authority of law? Yet a *Gentleman*, it ſeems, if he has offered or received the moſt trifling injury; if he has chanced to utter, or to be addreſſed with, ſome unguarded expreſſion; is to forget all former ties of connection and of friendſhip, all future conſequences, however diſtreſſing, to his family or to that of his opponent, which may attend the reſult of the conteſt; is to ſeek the other party's life, to add to this crime that of endangering his own; and thus to ſet divine and human ordinances at defiance, leſt his character ſhould ſuffer by abſurd and unmerited imputations. Character, as highly important to uſefulneſs, is undoubtedly to be defended with ſolicitude by all juſtifiable means; but it is to be hazarded, and even

 ſacrificed,

ſacrificed, if it cannot be ſupported by methods conformable to conſcience and Chriſtian duty. St. Paul, ſpeaking of the different offenders who ſhould appear in the latter days, cloſes the dark catalogue with thoſe who ſhould be " lovers of pleaſure more than lovers of God." What would he have ſaid had his ſubject led him to mention thoſe, who ſhould be more afraid of ſhame than of their Maker? Let us truſt however that common ſenſe and religion will at laſt prevail. To give or to accept a challenge is now but a very equivocal proof of courage, even in the eſtimation of thoſe who are termed, as the phraſe is, men of honour. Would the Officers of the Navy and Army ſhew themſelves ſuperior to popular prejudice, and *dare* to diſcountenance (*e*) and proſcribe a cuſtom

(*e*) The practice of fomenting duels, and aggravating the petty differences of others, is ſo truly deteſtable, that I would hope no Britiſh Officer can be guilty of it. Of its moral guilt it is ſcarcely poſſible to ſpeak too ſtrongly. Of its deſtructive tendency a judgement may be formed from the following event, which took place at Havre de Grace about the year 1768; and was related to me by a Gentleman who reſided in that city when it happened, and was in ſome degree acquainted with the parties. Two young Officers,

custom so irrational, savage, and unchristian; it would fall into universal discredit, and speedily be ranked, as it deserves, with the trial by ordeal, and other exploded institutions of Gothic barbarity.

Steadiness of demeanour, and uniformity of conduct, are found by experience not only to secure the submission, but to conciliate the esteem

Officers, about twenty-four years of age, and belonging to the Garrison, were remarkable for their intimate friendship. One day, when they were in a coffee-house, one of them engaged in a game at backgammon with a third person. In the course of play he committed a blunder. His friend, who was looking on, exclaimed familiarly, O how stupid you are! (Oh que tu es bête!) When the game was concluded, some other Officers of the Corps, who had been standing near, came up to him who had been playing; and asked him if he had not observed the insult which had been offered to him. He replied in the negative. The Officers said, that having been unwilling to interrupt the game, they had remained silent at the time; but that they must now repeat to him the injurious expressions which had been addressed to him. And having done so, they added, that he would stand disgraced for ever in the estimation of the corps and of the world if he did not exact satisfaction. The young Officer, turning to his friend, asked him, with perfect good-humour, whether he had used the words in question.

teem of ſoldiers and ſeamen. How indeed ſhall that Officer be either feared or beloved, who ſhews himſelf the ſlave of levity, fickleneſs, and caprice? That happy union of firmneſs exempt from ſupercilious and tyrannical arrogance, with freedom guarded from indiſcreet familiarity, which at once commands reſpect and wins the heart, is not to be attained without trouble, nor without an accurate obſervation of the character and manners of the different

queſtion. The other readily anſwered, that he had; but without the ſlighteſt idea of inſult. The reſt of the Officers ſtill inſiſted on the neceſſity of their fighting; but the two friends were fully reſolved to the contrary. In the evening, when they were all aſſembled at the meſs, the ſubject was introduced again: and the young Officers perceived a pointed coolneſs in the behaviour of their aſſociates. Early the next morning he who had committed the blunder at the game went to his friend, whom he found in bed; and ſaid to him, "I have paſſed a ſleepleſs "night; I ſee that I am branded with infamy; let us go "to the ramparts." The other replied, that, for his part, he had ſlept well, and that his mind had been undiſturbed; but that, if his friend thought it requiſite, he would attend him. When arrived at the ramparts, they embraced each other, and drew. And having agreed to die together on the ſpot, the one ſtood motionleſs, pointing his ſword to the other's breaſt; while the latter, in piercing his friend with a fatal thruſt, received a mortal wound himſelf.

claſſes

claſſes of ſociety. It is however an attainment of ſuch value, that it would deſerve to be purchaſed even at a higher price. An affectionate attachment on the part of the private men towards their Officers, fortifies them againſt temptations to deſert; diſpoſes them to regular and cheerful obedience; encourages them to bear hardſhips with patience, to encounter dangers with alacrity; and contributes beyond moſt other circumſtances to enſure victory in the day of battle.

He who is ſolicitous to be beloved by thoſe under his command, will treat them on all occaſions with juſtice and humanity. He will not ſeek perſonal advantages and emoluments for himſelf, at the expence either of their rights or of their comforts. Inſtead of ungenerouſly conſulting his own eaſe and accommodation by diſregarding their ſufferings, he will alleviate the diſtreſſes which they undergo by bearing his ſhare of them. He will not endeavour to gain the reputation of alertneſs, and thus to recommend himſelf to his ſuperiors, by haraſſing his men with vexatious and unprofitable movements, or by needleſs encroach-

ments on their hours of meals and reſt. He will never expoſe their lives to unneceſſary riſk in action, or out of it; nor permit himſelf to acquire the horrid habit of being careleſs of human bloodſhed. He will watch with inceſſant ſolicitude over their health; and will not forget how greatly its preſervation depends on the ſalubrity of their food, the ſufficiency of their clothing, their uniform regard to cleanlineſs, and the uſe of wholeſome precautions againſt infection *(f)*. He will gladly befriend them in their own little pecuniary concerns; as in eſtabliſhing the validity of their wills by his atteſtation; in the tranſfer of a part of their gains to their abſent families; in the recovering of wages or prize-money withheld from them; and in all thoſe caſes in which the private man finds the aid of his Officer neceſſary to enable him to ſecure or to diſpoſe of the fruits of his labour.

(f) The Captain of a man of war, and perhaps the Colonel of a regiment, has it in his power to do more towards keeping his men in health than the Surgeon. The truly meritorious attention paid by the late Captain Cook to that object, and the extraordinary ſucceſs with which it was providentially accompanied, are facts univerſally known. His exertions are worthy of univerſal imitation.

When

When ficknefs, cafualties, or wounds, give them a peculiar claim to his tendernefs, he will always adopt the moft fpeedy, proper, and effectual method of affifting each individual; whether it be by taking care that he be fupplied with every kind of fuccour which his fituation requires, and exifting circumftances admit of being furnifhed; or by fupporting his claim to be received into fome of the afylums provided by the public for thofe who are difabled in the defence of their country. He will not permit acts of fortitude and humanity, nor any other inftances of exemplary conduct by which particular individuals have diftinguifhed themfelves, to pafs without his praife, or to efcape from his memory; and will ftudioufly give to latent merit, even in the loweft ftation, an opportunity of difplaying itfelf, and of gaining advancement.

If an Officer's rank and ftation require him to take a part in the impreffing of feamen, or in the raifing of recruits for the land fervice; in the former cafe let him conduct himfelf with every degree of humanity which can be introduced into fo very objectionable a method

thod of manning the Navy; in the latter, let him not abet or connive at the knavifh and illegal methods frequently adopted by Serjeants and their confederates, to draw the ignorant and unfufpecting into their fnares. And let him not indulge even for a moment the moft diftant wifh to fcreen any of his agents from juftice, who fhall hereafter endeavour, as fome are faid to have endeavoured heretofore, to procure men for the fervice by means, which, as far as they extend, may be compared to the villany of the flave trade.

In taking cognizance of faults committed by the people under his control, an Officer ought equally to avoid that fupine careleffnefs which invites future offences; and that unrelenting and tyrannical feverity which confounds overfights with deliberate guilt, and makes no allowance for peculiarity of circumftances and fituation. Never let him grudge the pains of inveftigating a complaint to the bottom; never let him expofe himfelf to the fufpicion of pique, partiality and unfairnefs. In fentencing to punifhment, let him maintain difcipline and fubordination, without

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paſſion or unneceſſary rigour. In caſes where his rank gives latitude to his diſcretion, let him imitate the examples of thoſe Officers, who by their prudence have deviſed methods of manifeſting their diſpleaſure againſt delinquents, and ſubjecting them to ſhame and conſtraint, which have in a great meaſure ſuperſeded, except in very flagrant caſes, the neceſſity of ſeverer *(g)* chaſtiſement. Let him not acquire a habit of correcting with his own hand private men whom he happens to detect in ſmall tranſgreſſions. On Court-Martials let him remember juſtice and his oath.

There are various ſtations in the Navy and Army which confer on thoſe who occupy them a right of patronage (*h*) and promotion. Every ſuch right ought to be conſidered as a

(*g*) I allude to the wiſe and ſuccefsful methods which have been occaſionally practiſed by Captains of men of war.

(*h*) A Captain of a man of war is inveſted with the power of appointing Midſhipmen, and all who are not warrant officers. An Admiral, if commander in chief of a fleet, may promote even to the command of ſhips of the line. Similar privileges in the Army are poſſeſſed by Military Officers.

public

public truſt, and exerciſed with a ſtrict regard to deſert. He who from intereſted views or private attachment promotes a favourite, a friend, or a relation, to a poſt of which he is unworthy, betrays ſordid principles or an unſkilful judgement; diſcourages meritorious exertion throughout the ſervice; and perhaps prepares for his country ſome ſevere ſtroke to be experienced in diſtant years. Officers whoſe rank does not inveſt them with the diſpoſal of preferment, have yet the power of granting or refuſing many little indulgences to their men. Theſe ſhould never be withheld from ſuch as deſerve them, when they can be allowed conſiſtently with the public good. In beſtowing charity, an Officer ought to regard the merit as well as the diſtreſs of the perſon aſſiſted; and when he confers any ſpontaneous act of kindneſs ſomewhat out of the common way (*i*), he ought to regard it almoſt excluſively.

(*i*) I was lately informed of a Lieutenant Colonel of a regiment, who has had many of the private men inſtructed, at his own expence, in reading; an acquiſition not only advantageous to them in a moral light, but eſſential to their attaining the rank of Serjeant, or other ſimilar promotion.

Above all things, let an Officer bear in mind, that one of the higheſt duties which he owes to his Maker, and one of the moſt ſubſtantial benefits which he can render to his Country, is to train up the men under his authority to ſettled principles and habits of religion. Religion is the only ſolid foundation of true courage; the only certain pledge for conſiſtent excellence and perſevering fidelity in the path of military or naval duty. Unreflecting raſhneſs, inſenſibility to danger, emulation, pride, the dread of puniſhment, obſtinacy, deſpair, paſſion, the deſire of revenge; theſe and other motives, all more or leſs culpable or defective, may lead the combatant through many difficulties and perils, and ſupply for a time the place of better principles. But how little to be relied on is the reſolution derived from theſe ſources, compared with the genuine fortitude which he feels, who reſts with humble and lively confidence on the ſuperintending care of an all-wiſe, all-merciful, and all-powerful Protector, ever preſent with every individual in the crowded tumult of battle; a Being to whoſe favour he has habitually ſtudied to recommend himſelf by faithful obe-

dience to his laws; and to whoſe determination he cheerfully ſubmits whatever is to befal him, whether it be ſafety or ſuffering, life or death! Such are the principles with which, chiefly becauſe they are the pureſt that can be inſtilled into the human heart; and partly becauſe they lead, far beyond all other conſiderations, to an upright and magnanimous diſcharge of profeſſional duty; an Officer ought to inſpire, as far as it is poſſible, every individual (*k*) under his

(*k*) An Officer of very high rank in his Majeſty's Naval ſervice, to whoſe exertions in peace as well as in war this country is highly indebted, when I enquired of him what effect might be produced on the religion and morals of a ſhip's crew by the example and influence of the Captain, replied in pointed terms, that "a Captain has it in his "power to ſet *any* example, and to produce *any* effect." It is obvious that the power of a Commander of a regiment in this particular is, in many, if not in all reſpects equal to that of the Captain of a man of war.

The ſame Gentleman having favoured me with written communications of his ſentiments on ſome of the topics noticed in this chapter; I am glad to lay before the reader the following inſtructive extracts.

——" By the Naval Inſtructions, divine ſervice is to be "performed morning and evening on board of every "king's ſhip, according to the Liturgy of the Church of "England, and a ſermon preached on Sundays, unleſs "bad

his command. To this end let him enjoin a regular attendance, in every inftance where it is practicable, on the public offices of religion; and enfure general refpect to its Minifters by fhewing

" bad weather, or other *extraordinary* accidents, prevent " it.

" The Commanders, by the fame Inftructions, are ftrict- " ly required to fhew in themfelves a good example of " honour and virtue to their Officers and men; and next, " to be very vigilant in infpecting the behaviour of all fuch " as are under them, and to difcountenance and fupprefs " all diffolute, immoral, and diforderly practices, and alfo " fuch as are contrary to the rules of difcipline and obedi- " ence; and to correct thofe who are guilty of the fame, " according to the ufage of the fea.

" If any fhall be heard to fwear, curfe, or blafpheme the " name of God, the Captain is ftrictly required to punifh " them for every offence, by caufing them to wear a " wooden collar, or fome other fhameful badge of diftinc- " tion, for fo long a time as he fhall judge proper. If the " offending perfon be a Commiffion Officer, he fhall for- " feit one fhilling; if an Inferior Officer, fixpence. He " who is guilty of drunkennefs, if a Seaman, fhall be put " in irons until he is fober; but if an Officer, he fhall for- " feit two days pay.

" Laftly—Whereas the charge and command of the fhip " and the Officers and men ferving therein are *entirely* in- " trufted to the Captain; and the welfare and good ma- " nagement of the whole do in an efpecial manner depend

ſhewing proper regard to them himſelf. Let him not fail to exert whatever influence his ſtation may give him as to the appointment of a Chaplain to attend his men (and if he be Captain

" on his œconomy and prudence; he is to underſtand, " though the ſeveral rules contained in the Naval Inſtruc- " tions are ſorted into different claſſes for the better order " and clearneſs, that nevertheleſs he is himſelf reſponſible " for the *whole conduct and good government* of the ſhip, and " for the execution of all regulations here ſet down which " concern the ſeveral duties of the Officers and company of " the ſhip; who are to obey him in all things which he " ſhall direct for his Majeſty's ſervice."

"This tranſcript from the Naval Inſtructions ſhews " that the Captain of a king's ſhip has full authority to " govern thoſe under him; and if he does his duty, no ſet " of men in the community can be better placed for im- " provement in religion and morals than ſeamen. The " Inſtructions are practicable; but the truth is, they are in " a great meaſure become obſolete: and it will require " attention and ſtrict injunctions on the part of the Ad- " miralty Board to revive them. Proper Chaplains ſhould " be appointed to all ſhips where the number of men " makes the allowance equal to a moderate living; and " Curates upon the allowance that is not ſo. Such Cu- " rates ſhould riſe to the higheſt claſſes as they fall vacant, " if deſerving of it. And ſuch Chaplainſhips as are con- " nected with the Navy ſhould be *invariably* given to " deſerving Sea Chaplains. The Ordinary of the Navy, " though

tain of a man of war, that influence will commonly be decifive) in fecuring the nomination of a man of genuine and active piety. Let him invariably difcountenance and chaftife every

" though compofed of fome thoufands of men, in time " of peace is miferably neglected. The Naval Inftructions " were formed when religion had more influence among " the Great than is the cafe at prefent; and to carry the " whole of them into execution would be difficult for an " individual without the fupport of higher authority. But " as they muft be confidered and amended foon, or the " Navy difcipline will be extinguifhed; this would be the " time for reinforcing what regards divine fervice.

" I will now tell you what my own practice was when a " Captain; and I have the pleafure to know that the fame " is now done by a few of my acquaintance. I had been " fixteen years belonging to the fea fervice before I heard " either prayers or divine fervice performed on board of " fhip; and in all that time, I never knew any means ufed " for giving a check to vice or immorality, further than as " they interfered with the common duties of the fhip. As " foon as I was made a Captain, being in a very fmall " veffel where no Chaplain was allowed, I began reading " prayers myfelf to the feamen on a Sunday, and a fermon " alfo. I continued this practice, by myfelf or my Chap- " lain, during the whole time of my being afloat; and " fhould not have hefitated doing it every day, if the prac- " tice of having it done on Sundays had been general in the " fleet. That it is in a degree practicable every day, I have " no

every kind of vice, particularly drunkenneſs, profane language, and other habits of wickedneſs by which the Military and Naval profeſſions are proverbially diſgraced. Let him follow

"no heſitation in ſaying; as I have very frequently performed the ſervice myſelf with the greateſt part of the ſhip's company attending, when in chaſe of an enemy, and with a probability of engaging at the end of it. There is nothing wanting, but a reviſal of the Inſtructions; or indeed a ſimple order or proclamation to enforce obedience; and the allowing *proper* Chaplains to execute it. No expence would attend this ſtep, as the pay is provided for, and the men's quota regularly ſtopped; but paid to the Cheſt at Chatham when no Clergyman is on board. In flag-ſhips, and ſhips of the firſt and ſecond rate, the Chaplain ſhould be in Prieſt's orders, for the purpoſe of adminiſtering the ſacrament occaſionally in the fleet; a commemoration which I never remember to have heard obſerved at any time on board of ſhip.

"It has been the practice of late to appoint Chaplains to ſhips of the line, *when ſolicitation has been made by Captains or others*: but in this caſe, many of them have never gone to ſea in the ſhips; and notwithſtanding the Chaplain muſt produce a certificate from the Captain before he receives his pay, that he has performed divine ſervice *as often as it has been required from him*, he ſeldom has found a difficulty in obtaining it.

"Character, which is eſſential to improvement, is ſeldom attended to in the appointment of Chaplains. If the "Chaplains

follow the example of the moſt reſpectable perſons in thoſe profeſſions, by exploding the no leſs wild than impious opinion, that the uſe of oaths is neceſſary to maintain authority over

" Chaplains were permitted and alſo enjoined to diſtribute " bibles, prayer-books, and other proper books, to the Sea- " men, to be paid for by themſelves at pay-day; I have lit- " tle doubt but that our Seamen would be among the " foremoſt of the claſſes of the community for piety and " good conduct. If divine ſervice is performed daily on " board a king's ſhip, it will require ſhortening; and this " may eaſily be done by our Biſhops, as in the Forms to be " uſed at Sea at the end of the Common Prayer Book. " The Chaplain might then go through this ſervice at leaſt " every morning; and although the whole of the ſhip's " company might not be able to attend, yet, if counte- " nanced by the Officers, he would never want a decent " congregation. Very much will depend upon the cha- " racter of the Captain; but as it cannot be expected that " all will be good, it is the more neceſſary for the Admi- " ralty to enforce obedience to the Inſtructions, and Ar- " ticles of War, both of which enjoin what I have recom- " mended. When Captains ſee this done, and conſider " themſelves as reſponſible and puniſhable for neglect, " there will be no doubt of their attention.

" I know very little of Regiments, but have heard of " many being very regular and exemplary in head quarters; " of which I have no doubt when the Commanding Offi- " cer attends to them, and encourages them in religion.

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over ſoldiers and ſeamen. Let him chaſe from his regiment or his ſhip games of chance, and all other incitements to profligacy, riot, and diſorder. Let him diſtinguiſh by his notice thoſe who lead chriſtian lives; and allow to virtuous conduct every degree of reaſonable weight in the granting of favours, and the diſtribution of preferment. And in ſome meaſure for the ſake of all around him, but principally for his own, let his life be a practical

" The Inſtructions given to a Sea Officer in Mr. Ramſay's book were intended for a young man brought up under me. The compliment therefore paid to me, though much greater than I was entitled to, will ſerve to convince thoſe who were acquainted with the ſervices performed (for which I received an honourable mark of approbation from the Legiſlature of Barbadoes), that religion and naval duty are very compatible."

Mr. Ramſay's Eſſay on the Duty and Qualifications of a Sea Officer contains many excellent directions, and well deſerves the peruſal of perſons of the naval profeſſion. The fourth edition of that work, which he left at his death prepared for the preſs, will be found enriched with a copy of a complete ſet of rules and regulations for the government of a man of war, formed by the Officer whoſe ſentiments I have juſt been tranſcribing; and carried by him into execution with eſſential benefit in two line of battle ſhips, one of which was of ninety guns, with a company of ſeven hundred and fifty men.

example

example of the duties which he inculcates; and evince that in all his proceedings, whether they reſpect himſelf or others, he is actuated by a conſtant reference to a future and eternal ſtate of exiſtence.

The nature of the naval and military profeſſions, the former of which adds to the common precariouſneſs of life all the hazards reſulting from boiſterous elements, and both of them the riſks attendant on war, ſeems to call thoſe who belong to them to peculiar ſeriouſneſs of mind and circumſpection of conduct. Yet, ſtrange as it may be, thoughtleſſneſs frequently appears to increaſe in proportion to familiarity with danger. If this obſervation be well founded, it ſtrongly inculcates on every Officer the importance of unremitting attention to the rites and precepts of religion in a line of life, in which the very circumſtances that might have been judged ſingularly likely to lead the mind to habits of devotion, and a conſtant and lively and awful ſenſe of duty, are found to fix it in careleſſneſs, and to harden it in guilt.

3. The

3. The duty of an Officer towards enemies, and towards the ſubjects of neutral powers, is to be noticed in the next place.

The duties which an Officer owes to the enemies of his country may be compriſed under the two general rules, of faithfully rendering to them whatever they are entitled in point of juſtice to demand from him; and of treating them with every degree of forbearance and humanity compatible with the ſucceſsful proſecution of a juſt war.

The firſt of theſe rules binds an Officer ſtrictly to obſerve thoſe general laws, which civiliſed Nations have adopted by expreſs or tacit convention for the purpoſe of regulating hoſtilities. For as theſe laws were mutually recogniſed by the belligerent powers previouſly to the war, each party may claim from the other, as an abſolute right, the benefit of every injunction and proviſion which they contain. It binds him likewiſe to conform to all articles exiſting in any treaty between his own country and the enemy, which were to continue uninterruptedly in force notwithſtanding

ſtanding future ruptures between the contracting States. Theſe antecedent engagements cannot be annulled without the act of the enemy; who may cancel them either by an expreſs renunciation; or by failing himſelf to comply with them, or with ſome other agreement on which their validity was to depend. But an Officer who ſhould infringe any one of them until it is undeniably cancelled in ſome one of theſe methods by the other party, would be guilty of an act of palpable diſhoneſty; and would of courſe be altogether inexcuſable, whatever advantages he might hope to procure, or might actually obtain, for his country by the attempt. Our rule in the next place inculcates on every Officer the punctual performance of all engagements which have been made during the courſe of the war with the adverſe Nation, or with individuals belonging to it, either by the Government of his own country, or by its authority delegated to himſelf or to other perſons employed in its ſervice. Under this deſcription is comprehended the ſcrupulous obſervance of capitulations, of truces, of ſafe conducts, of parleys, of cartels, of paroles. He who abets another

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in the violation of theſe or ſimilar promiſes and contracts, is not leſs criminal than if he had broken them himſelf. He who breaks them by inſidious ſubterfuges and evaſions; he who employs the liberty and opportunities which they afford him for purpoſes which he knows to be repugnant to the real and acknowledged meaning of the other party; commonly incurs deeper, becauſe more deliberate, guilt, than he would have brought upon himſelf even by openly refuſing to adhere to them.

Sincerity is a duty faithfully to be obſerved towards an enemy. It is no breach of this precept to have recourſe to ſuch feints and ſtratagems in the conduct of warlike operations, as are not repugnant to the received laws of war; for theſe cannot be ſtyled deceits in the proper ſenſe of that term, being invariably expected (*l*), and admitted to be fair dealing by

(*l*) Some authors have defended the lawfulneſs of ſtratagems on the abſurd plea, that a man having a right to kill his enemy, has therefore *à fortiori* a right to deceive him. See Vattel's Law of Nations, Chapter on Stratagems, vol. ii. p. 66; a chapter which contains many juſt obſervations, blended with a ſtrange mixture of weak, confuſed,

by the oppofite party. The combatant who feems to aim a blow at the head of his adverfary, with a view to lead him to leave his breaft expofed, at which from the firft he intended to ftrike, violates no rule of morality: for the other was well aware, that the geftures of the affailant were not meant to convey any promife as to the part againft which his attack fhould be directed. For fimilar reafons the Commander is blamelefs, who apparently menaces a particular diftrict with an invafion, that he may cover his real defigns on another quarter; or affembles numerous ftandards on a hill, and pitches a camp of unneceffary magnitude, that

fufed, and inconfiftent reafoning. Deceit is on no pretence or occafion lawful. But allowed ftratagems are not deceits, according to the real import of the word. If a perfon, on being requefted to do a particular thing, anfwers, "that he will do it," or even nods, and afterwards does it not, it is deceit. And why? For this reafon alone, becaufe the words and the fign were fuch as, according to common acceptation, implied affent. But had it been univerfally underftood, that in certain cafes they fhould not neceffarily imply that meaning, he might have ufed them in thofe circumftances without being pledged to it, and without being chargeable with deceit if he

that he may excite exaggerated ideas of his force. But were an Officer, after agreeing to ſurrender a fortreſs, to cut off by an ambuſcade the troops ſent to take poſſeſſion of it, or blow them up by ſpringing a mine; or were he to call for quarter in battle, and then to ſhoot his antagoniſt whom he had thus thrown off his guard; his conduct, being utterly repugnant to all the eſtabliſhed laws and uſages of war, would be the height of treachery and baſeneſs.

Our ſecond general rule directs an Officer to conduct himſelf towards the enemy with every degree of forbearance and humanity

he ſhould depart from it. Now it is univerſally known and admitted to be one of the laws of war, that an Officer is at liberty, within certain limits, to uſe ſigns of various ſorts without being pledged to their common meaning; and to uſe them thus for the purpoſe of leading the enemy to erroneous concluſions as to his force and intentions. He therefore who uſes them in this manner is guiltleſs of deceit.

The Achæans, according to Polybius, b. xiii. p. 671, &c. appear to have rejected the uſe of ſtratagems, not merely as cowardly, but as immoral; and the hiſtorian himſelf ſeems inclined to that opinion.

compatible

compatible with the ſucceſsful proſecution of the war.

When hoſtilities are actually commenced, they muſt neceſſarily be carried on with the ſpirit and exertions adapted to bring them to their proper termination—the attainment of redreſs for injuries received, and of reaſonable ſecurity againſt ſimilar attacks for the future. But every hoſtile proceeding of an army, or of an individual, which is not eſſentially conducive to this end, whether it be the ſlaughter of troops who might as eaſily have been taken priſoners; needleſs rigour towards vanquiſhed or captive adverſaries; the wanton deſtruction of public buildings, and of the monuments of ſcience and art; or injury offered to the perſons, and havock committed on the property, of unarmed citizens and peaſants, is totally without excuſe. A conſcientious Officer, while he courageouſly diſcharges his duty to his country in the camp and the field, will rejoice in every opportunity which preſents itſelf of mitigating the horrors, and alleviating the miſeries of war. He will ſpare, whenever it is practicable, the blood of his enemies. He will

will remember that thoſe who fall in the field of battle, to whatever nation or party they belong, are men like himſelf; and that the life of every ſingle unit in the long ſum of ſlaughtered thouſands was of the utmoſt poſſible conſequence at leaſt to one perſon, if not to more. He will contain his troops within the ſtrict bounds of diſcipline; he will inculcate on them conſtant regard to moderation and humanity; and will chaſtiſe with exemplary rigour every act of barbarity and unauthoriſed rapine, whenever and by whomſoever it may be perpetrated. He will never forget the common ties of human nature, by which he is inſeparably united to his enemy; an enemy whom he is ſhortly to meet before the throne of their common Judge. Let the conquered foe, whether of high rank, or in the humbleſt ſtation, be treated as a brother. If he has fallen, let his remains be protected from inſult. If wounded, or afflicted with ſickneſs, let him receive that ſuccour which the victor, were their ſituations reverſed, would wiſh to experience. Let the priſoner be exchanged without unneceſſary delay; or be permitted, as ſpeedily as circumſtances will allow, to return on his parole

role to his country and his friends. Let not baits be thrown out to allure him into crimes; to tempt him to desert and betray his country; to make improper discoveries; or to enter into any engagements, or accede to any proposals, which a man of integrity ought to reject. If he must unavoidably be detained for a time in confinement, let not severity or neglect add to the distresses of a prison. Let the utmost tenderness and delicacy be shewn to those of the weaker sex, who are overtaken by the calamities of war. And above all things, when towns and forts are captured by storm, let no exertions be spared to protect persons of every description, particularly the old and the helpless, from the outrages of an unbridled soldiery, flushed with victory and panting for spoil and devastation.

Among the many blessings which the introduction of Christianity has conferred on mankind, the change which it has wrought in the mode of conducting hostilities, and in the treatment of enemies and captives, is not the least considerable. This change is ascribed solely to the refinement of modern manners,

by ſuch as are not diſpoſed to attribute much credit of any kind to Revelation. But they forget that this very refinement is principally due to the influence of the Goſpel on thoſe who believe it, and to the effect of their example on thoſe who do not.

The duty of an Officer towards the ſubjects of neutral powers conſiſts in reſpecting the rights and immunities of neutrality, whether eſtabliſhed by the general laws and uſages of nations, or by particular (*m*) treaties. He may not

(*m*) There are ſome things not provided for by treaties, which cuſtom and the practice of war ſeem to authoriſe. Treaties generally forbid neutral powers to ſupply an enemy with naval ſtores, or any kind of warlike weapon; and commonly ſpecify the particulars. But it ſometimes happens that many articles not within the letter of the treaty may be highly uſeful to an enemy, when in great want of more material ſtores; and this country, in ſuch caſes, through the ſuperiority of her naval power, has ſeldom failed to bring ſhips having them on board into port, and to make a compulſory purchaſe of the articles in queſtion. The public, through the medium of the Navy Board, has been the purchaſer; and the price given has been ſufficiently good. If we had never proceeded further, neutral powers would probably have found no fault. But in the American war ſuch ſhips, through uſeleſs forms and bad

not compel nor delude individuals to violate their neutrality towards his enemies by abetting, directly or indirectly, his hostile operations. He may not infringe neutral property by sea or by land, nor detain or purchase it by compulsion; except in cases wherein the legality of such measures was previously recognised by the neutral state. He may not attack his adversaries, nor seize their property, in disregard of the privileges of neutral lands, coasts, and harbours,

bad management, were suffered to lie in our harbours till both vessels and cargoes were perishing. The consequence was, that on account of a very few articles the ship's voyage was stopped; and a host of enemies raised up against us, which at last ended in an armed neutrality. We were in the end obliged not only to purchase every article of the cargoes; but to pay heavy demurrage, and also compensation for the damage which the ships received, to an enormous amount. Some of the ships remained twenty-one months in our ports before they were brought to trial; although a short and obvious plan (which would at once have ensured the seizure of the objectionable articles on the arrival of the vessels in port, and the immediate liberation of the ships without the charges and delay of trials in the Court of Admiralty, and would thus have prevented the vast expences and other disagree-

harbours, whatever advantage we might hope thus to obtain for (n) himſelf or for his country.

4. It remains to ſubjoin a few brief remarks relating to the conduct of an Officer in private life.

They who eſcape the vices peculiar to their profeſſion,

able conſequences which reſulted to this country from method actually followed) was propoſed from the proper quarter.

(n) There are various caſes of captures, ſome reſpecting neutral rights and immunities, others not, in which a Naval Officer will naturally be under a temptation of ſeeing the circumſtances too ſtrongly in his own favour. It may be doubtful whether the veſſel taken be neutral property or not; whether it was not ſeized within ſo ſmall a diſtance from a neutral coaſt, that the captor is bound to relinquiſh it; whether it was not taken after the commencement of a truce; whether other veſſels were not actually in ſight at the time of the capture, ſo as to be entitled to a ſhare in the prize; whether, if it be a retaken ſhip, it was not in the enemy's poſſeſſion merely for ſo ſhort a time, that it ſhould be reſtored to the original owner. In theſe and all ſimilar ſituations let an Officer carefully guard againſt the bias to which he is ſubject; and ſhew himſelf aware that the rights of others, whoever they may be, are no leſs ſacred than his own.

profeſſion, cannot avoid the habits which it naturally produces. It may be obſerved, with regard to the profeſſions of which we are now treating (and a ſimilar reflection might be applied to others), that ſome of the habits which they occaſion, and even require, become vices when they are transferred from the camp and the quarter-deck to the walks of ſocial and domeſtic life. And thither they will certainly, though perhaps imperceptibly, be transferred, unleſs active care be employed to confine them to their proper ſphere. He who has been long accuſtomed to the exerciſe of undiſputed command, is in danger of expecting from his family and dependents a mechanical ſubmiſſion to his inclinations, and an unbounded deference to his opinions; or at leaſt of tarniſhing the character of the Maſter, the Parent, and the Huſband, by the authoritative demeanour and peremptory tone of the Officer. He who has been familiariſed to the frequent change of place and company experienced by perſons in the Navy and Army, is liable to haraſs thoſe who are connected with him, by indulging a roving and unſettled diſpoſition; to depreſs them by diſcontent at what he terms the dul-

 neſs

neſs of retirement; or to ruin them by expenſive efforts to enliven it. And he who has been uſed to pay that attention to perſonal air and appearance which is thought requiſite on the parade, has but a ſtep to take to the affectation and fopperies of dreſs; and it is well if he has not taken it already.

When an Officer is not called into employment, a portion of the leiſure which he enjoys ſhould be allotted to the ſtudy of his profeſſion. Otherwiſe, when he returns into active ſervice, his aſſociates will probably perceive, if he ſhould not make the diſcovery himſelf, that he has rapidly declined in knowledge, alacrity, and merit. This too is the time for ſtoring his mind with other attainments in ſcience, in hiſtory, in uſeful and elegant literature; which cannot be fully acquired, though they neither need nor ought to be neglected, during the ſhorter intermiſſions of profeſſional avocations. In the intervals of garriſon duty, and the quiet of a voyage, a package of well-choſen books, not bulky enough to occaſion inconvenience, will impart much ſubſtantial information; and prevent the

languor of many a tedious hour. As young men are frequently placed in the Navy and Army before their education is properly completed, every fubfequent opportunity of improving the mind ought to be turned to the beft advantage. A Military Officer in quarters in time of peace has many ample opportunities; and the due application of them will preferve him from the idle, finical, and diffipated habits, which otherwife he will fcarcely fail to contract. He who belongs to the Naval profeffion, when not engaged in real fervice, is generally detached altogether from profeffional bufinefs; and therefore feels himfelf at liberty to devote his thoughts and time to fome other liberal employment, until his country calls again for his exertions in her defence. But the Military Officer is commonly expofed during peace to the difadvantage of being fo far occupied by the duties, or at leaft by the forms, of his profeffion, as to be precluded from undertaking any other fettled purfuit; while at the fame time the greater part of his hours remains vacant, and open to the intrufion of indolence and vice.

"In free States," Sir William Blackſtone remarks (*o*), "no man ſhould take up arms "but with a view to defend his country, and "its laws. He puts not off the citizen when "he enters the camp; but it is becauſe he is "a citizen, and would wiſh to continue ſo, "that he makes himſelf for a while a ſoldier." This juſt reflection points to that depravation of public principle, which too often takes place among the Military of deſpotic monarchies. Trained to habits of implicit obedience, and of entire dependence on the will and favour of the Prince; inſulated in camps and fortreſſes; and detached from the offices of civil life; they learn to conſider themſelves as poſſeſſing an intereſt diſtinct from that of the other members of the community, and thence are more eaſily led to co-operate in oppreſſing them (*p*). It muſt be confeſſed that this danger will ſubſiſt, in a greater or a leſs degree, in all countries where ſtanding armies are

(*o*) Commentaries, vol. i. p. 407, 5th edition.

(*p*) The nature and circumſtances of Naval ſervice are ſuch, that Officers in that line are little expoſed to this temptation, unleſs it be in what regards the impreſs ſervice.

maintained;

maintained; as ſome of the circumſtances from which it originates are eſſential to diſcipline and ſubordination. And on this account, as well as for many other reaſons, the numbers of the ſtanding army ought ever to be reſtrained within the narroweſt bounds conſiſtent with the public ſecurity. But the natural ſpirit of liberty is, it ſurely may be hoped, too ſtrong, and a rational ſenſe of duty too prevalent, among Britiſh Officers, to leave reaſonable ground for apprehenſion that their arms will ever be employed otherwiſe than for the ſupport of the rights of their countrymen. The Britiſh Conſtitution has wiſely engaged the Military Officers in its defence, and ſhewn a juſt confidence in their patriotiſm, by admitting them to all the civil honours and occupations conſiſtent with their peculiar functions, and even to ſeats in both Houſes of Parliament.

If an Officer is alſo a member of the Legiſlature, never let him proſtitute his vote in a ſingle inſtance for the purpoſe of advancing himſelf, or of being employed in his profeſſion. And let every Officer, whether in Parliament

liament or not, equally abhor acting a mean and dishonest part at the beck of any person whatever, whether in a public or in a private station, with the view of obtaining preferment.

CHAP.

CHAP. IX.

ON THE DUTIES OF THE LEGAL PROFESSION.

"A BARRISTER, according to the present mode of exercising his profession, lives by the practice of systematic and flagrant injustice. It is his almost daily business to vindicate proceedings which his understanding and heart must condemn, to defend culprits whom he knows to be guilty. How is the man, who strives by legal subtleties to establish for his client the validity of an iniquitous bargain, less criminal than if he had robbed the sufferer on the highway? How is the man more innocent in the eye of conscience, who, by availing himself of verbal informalities in a will, gains the estate to his employers in contradiction to the known intentions of the testator, than he would have been, had he forged a deed of gift in their favour? Why is the Advocate, who by the

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" aid of technical quibbles and flaws refcues " from public juftice the wretch who has " perpetrated a murder, lefs to be abhorred " than the murderer himfelf? Let the practi- " tioner at the Bar renounce at once all concern " with caufes, the merit of which he has rea- " fon to diftruft; or, if he is confcious that " he fhould thus reduce his emoluments below " the moft moderate recompenfe which his " induftry and exertions demand, let him re- " nounce a profeffion incompatible with the " fundamental dictates of morality."

Such we may conceive to be in fubftance the objections, which, had they been decorated by the admired imitator of Lord Bolingbroke with the brilliancy of his eloquence, might have been formed perhaps into a powerful argument againft one of the moft diftinguifhed inftitutions of civil fociety. The difficulty which they prefent has difquieted with fcru- ples the minds of wife and good men. It be- comes us therefore to clear the profeffion itfelf from the imputation of inherent criminality, before we attempt to illuftrate the duties of thofe who follow it.

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We may reply then, in the firſt place, that civil ſociety, for which men are evidently deſigned, cannot be upheld unleſs effectual means are provided for maintaining the rights of its members; that injuſtice cannot be repreſſed in any tolerable degree by unſettled and arbitrary proceedings adopted in particular caſes, nor by any other method than the eſtabliſhment of general laws; and that theſe laws would become nugatory, were there not an order of men appointed to claim and apply their aſſiſtance in behalf of the injured. We may proceed in the next place to obſerve, that every man ought to be preſumed innocent until he is proved guilty; that it becomes the Advocate to leave to Judges and Juries the determination of doubtful points, and to conſider almoſt every point as doubtful, until the trial ſhall afford him an opportunity of learning and appreciating the various facts and arguments on which the claim of the oppoſite party depends; and that although occaſional evils may reſult from the univerſal and invariable application of eſtabliſhed laws, he may conſcientiouſly demand, under any circumſtances whatever, a deciſion conformable to them, not merely becauſe

becauſe the univerſal and invariable applica-tion of them is eſſential to the due diſtribution of juſtice, but becauſe the nation has avowedly conſented and reſolved to acquieſce in their deciſion of all queſtions to which they are meant to be applied. But does not this anſwer, it may be ſaid, give the Advocate a liberty which Chriſtianity denies to him? Does it not teach him, that immoral means may be uſed to accompliſh a beneficial end; that individual acts of fraud and injuſtice may be vindicated and abetted, for the ſake of up-holding a ſyſtem, by which fraud and injuſtice are on the whole reſtrained? By no means: it gives no countenance to a doctrine ſo clearly condemned in the Goſpel. Let it be remem-bered, that the ſtandard to which the Advocate refers the cauſe of his client is not the law of Reaſon, or the law of God, but the law of the Land; and that he appeals no further to the two former than as they are incorporated into the latter; that his peculiar and proper object is not to prove the ſide of the queſtion which he maintains morally right, but legally right; that the law offers its protection only on cer-tain preliminary conditions; that it refuſes to

take cognizance of injuries, or to enforce redreſs, unleſs the one be proved in the ſpecific manner, and the other claimed in the preciſe form, which it preſcribes; and conſequently that, whatever be the pleader's opinion of his cauſe, he is guilty of no breach of truth and juſtice in defeating the pretenſions of the perſons whom he oppoſes, by evincing that they have not made good the terms on which alone they could be legally entitled, on which alone they could ſuppoſe themſelves entitled, to ſucceſs.

"It follows then," the objector will reply, "that a Barriſter may conſcientiouſly "undertake the management of any ſuit what-"ever; convinced as he may be that it is both a "cruel and an iniquitous proſecution, originat-"ing in rapacity, malice, or revenge." This concluſion is altogether groundleſs. Caſes may frequently occur in which an Advocate would be highly blamable were he to undertake the defence of the cauſe propoſed to him, though by defending it he ſhould violate no precept of juſtice. If in conſequence of facts communicated to himſelf, or through circumſtances eſtabliſhed by public notoriety, a cauſe ſhould

present an aſpect ſo dark as to leave him no reaſonable doubt of its being founded in iniquity or baſeneſs, or to juſtify extremely ſtrong ſuſpicions of its evil nature and tendency; he is bound in the ſight of God to refuſe all connection with the buſineſs; and, if he finds himſelf inadvertently entangled in it, to relinquiſh it without delay (*a*).

The foregoing reaſoning may be illuſtrated by an example. The father of a family dies, having bequeathed his eſtate, in conſequence of diſapproving his ſon's way of life, to a nephew. The ſon claims the property in a court of law; pleading that the teſtator was diſordered in his underſtanding, and that the will was not atteſted by competent witneſſes. A Barriſter well acquainted with all the circumſtances of the caſe, is deſired by the nephew to undertake his defence. Suppoſe the private ſentiments of the Counſel to be, that

(*a*) Were we to ſuppoſe a cauſe to depend for ſucceſs on a human law manifeſtly contrary to the law of God, a Barriſter would be obliged in conſcience to refuſe all concern with it. Thus, in former times, no Lawyer ought to have taken any ſhare in proſecutions founded on acts of Parliament for burning of heretics.

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the father had cheriſhed unreaſonable prejudices againſt his ſon; and therefore was guilty of a moral crime in making the nephew his heir. Yet he may defend with a ſafe conſcience the title of the latter. For it is no part of his office to vindicate the motives of the parent. They are not the points againſt which the attack of the ſon is directed; they are not the grounds on which the law will form its deciſion. Whatever then may be the opinion of the Advocate reſpecting them, he may fairly endeavour to ſubſtantiate matters of fact perfectly diſtinct from them, the ſoundneſs of the teſtator's intellect, and the legal admiſſibility of the perſons who atteſted the will. But if he were aware that the diſguſt which the father had conceived againſt his child aroſe from the ſecret machinations of the nephew; if he were aware that parental affection had been extinguiſhed by inſidious artifices, and the credulity of old age beſieged by fabricated calumnies; he ought to decline the retainer with inward abhorrence, and not to diſgrace himſelf for a moment by appearing to countenance guilt ſo palpable and enormous,

though perſuaded that it might appeal with ſucceſs to the forms of legal juſtice.

If any obſcurity ſtill remains on the ſubject, it may probably be diſpelled by conſidering that the reaſoning, here applied to the profeſſion of the Law, is grounded on general principles applicable to every profeſſion. For on the one hand it is univerſally true, that no man is guilty of an actual infringement of juſtice, nor neceſſarily criminal, in ſelling at a fair price the commodity, whatever it may be, in which he deals; though he ſhould diſapprove the manner in which the purchaſer means to employ it. And on the other, it is undeniable that caſes may exiſt, in which, if he ſhould furniſh the article to his cuſtomer, he would be highly culpable. Thus a diſtributor of ſtamps would not neceſſarily act a guilty part in ſelling one to a neighbour, who ſhould manifeſtly intend to uſe it in borrowing money to ſupply his extravagance, and on terms which he could not properly afford; nor a gunſmith in diſpoſing of a brace of piſtols to a perſon whom he might think not un-

likely

likely to leave them charged on his table, to the hazard of thoughtlefs vifitors. But did the former conceive that the ftamps were to be employed in a forgery; or the latter that the piftols were intended to extort purfes on the highway; a compliance with the requeft of the cuftomer would be indefenfible and flagitious.

The way being fmoothed by the removal of thefe obftacles, we may proceed to diftribute the fubject of this chapter into four principal heads. Under the firft will be confidered the general qualifications at which a Barrifter is to direct his aim; and the general prejudices and temptations againft which he is to guard himfelf. The fecond will relate to his conduct in the management of a caufe previous to and during the trial. The third, to the peculiar fituation of thofe Lawyers, who are Members of the Houfe of Commons. The fourth, to the duties of Judges.

I. The ftudy and the practice of the law being in a high degree laborious; the former to thofe who hope to attain confiderable eminence, the latter to thofe who have attained

it; no man ought voluntarily to engage in the profeſſion, who does not poſſeſs that ſtrength of bodily conſtitution which is requiſite for a faithful performance of its duties. Sedentary confinement, continued intenſity of thought, the exertion of long and frequent pleadings in hot and crowded courts, and the anxiety which attends the conſciouſneſs of being reſponſible for numerous and important concerns, are little adapted to a weak and languid frame. Better were it at firſt to ſeek for moderate competence in a more tranquil occupation; than either to be at length compelled by broken and perhaps irrecoverable health to abandon the proſpect of legal emoluments and honours; or to perſevere in the purſuit with tottering and painful ſteps, until it terminates in an untimely grave.

If a robuſt bodily temperament be eſſential to the Barriſter who looks forward to profeſſional eminence, a large portion of natural intellect is equally indiſpenſable. In vain may he hope for mental comfort in the exerciſe of his vocation, if he is not endowed with a ſound, clear, comprehenſive, and penetrating underſtanding,

ſtanding, formed to graſp a widely extended ſubject; to fix at once on its leading features; to unravel its intricacies; to trace and diſcriminate the remote analogies by which it is connected with eſtabliſhed precedents; and to diſcover the diſtinction between actually exiſting ſimilarities and imperfect or fictitious reſemblances. In vain may he hope to accumulate by private induſtry the requiſite knowledge, or to apply it in public with practical advantage; if he is not furniſhed with a memory eager to imbibe, faithful to retain, prompt to ſuggeſt. Genius and taſte are not perhaps abſolutely neceſſary to conſtitute an able Lawyer. The ſimple ſhaft of the Doric column may ſupport the building placed upon it as firmly as if it were crowned with an ornamented capital. But the truly majeſtic ſuperſtructure is ever found to reſt on the pillar graced with Ionic volutes, or entwined with the Corinthian acanthus. And he will become the truly ſplendid luminary of the bar, who, equalling his competitors in other gifts of nature and in acquired attainments, is enabled by ſuperiority in genius and taſte to dart upon connections and ſeize illuſtrations, to which he

never would have been led by the dull and tedious path of induction.

Of all the acquired qualifications (*b*) essential to the Barrister, the first is professional knowledge. He will lay the foundations of it in a perfect acquaintance with the immutable and universal principles of Natural Law, and the rules

(*b*) Many of the observations which will be suggested respecting the duties of Barristers will be equally applicable to Attornies; whose advice is nearly or altogether decisive in a variety of cases of inferior moment, and in important cases during the early part of their progress. The application will be too plain not to be made by an Attorney, who peruses the present chapter with an intention of regarding as addressed to himself whatever may obviously be transferred to the nature and circumstances of his own profession. It is scarcely possible to calculate the injury done to individuals and to the public by an Attorney who foments quarrels, and encourages litigation; who takes fraudulent advantages; who imposes on the simplicity of witnesses, leads them into unintentional contradictions, or tempts them to affirm facts of which they are doubtful or ignorant; who heaps expences on his employers by recommending needless consultations; by promoting artificial delays, and suggesting circuitous methods of proceeding; by drawing out deeds and settlements to an extravagant and unnecessary length, and by immoderate charges for his personal trouble and attendance; who betrays the private

rules which reaſon dictates concerning the credibility of witneſſes, and the weight due to different degrees of probability, to analogical and to circumſtantial evidence. He will ſearch out the original rights and duties of mankind, before he commences an enquiry how far they are modified and changed by the civil and municipal inſtitutions of his own country; and when he proceeds to inveſtigate thoſe inſtitutions, he will attentively examine during his progreſs how far they are conſiſtent with the leading objects to which they ought to

private concerns of one man, or of one family, to another; or practiſes any of the innumerable devices of unprincipled chicanery, by which conteſts are excited or prolonged, the demands of juſtice reſiſted or eluded, and diſhoneſt emoluments obtained or purſued. Moderation as to the premium required with a clerk, and conſcientious attention in giving him profeſſional inſtruction, and in watching over his moral conduct, are duties equally incumbent on all Attornies. But the Attorney who reſides in the metropolis ought to receive his young clerk into his own houſe, whenever it can be done with any tolerable convenience. This admonition is but too well juſtified by the numerous inſtances of clerks, who having been placed in lodging-houſes, and left without control or ſuperintendence as to the employment of their time when out of the office, have plunged into every kind of vice.

be directed, and how far they deviate from their proper courſe. He will reflect, that his aſſiduity to make himſelf maſter of the local ſtatutes of his native land is to be regarded not as a ſucceſſion of barren efforts of the memory, but as a liberal exerciſe of the underſtanding. While he ſcrutinizes with patient induſtry the chronological origin and progreſs of the leading branches of our code, and traces their ſeveral ramifications to a Roman, a Saxon, a Daniſh, or a Norman ſtock; he will mark the moral cauſes from which they took their riſe, and the effects of which they have been productive. He will call in to his aid a reaſonable degree of acquaintance with the legal inſtitutes of other nations ancient and modern; of thoſe nations more eſpecially, whoſe form of government has reſembled our own in any of its characteriſtic features; and will obſerve the influence which they have reſpectively diſplayed on the manners, diſpoſitions, and welfare of the people. By purſuing his preliminary reſearches on a wide and capacious ſcale, he will guard himſelf from imbibing thoſe narrow prejudices, and reſting in thoſe contracted views, which circumſcribe the mind of the Student

who

who looks not beyond the letter of Britiſh Acts of Parliament, and the practice of Britiſh Courts. But that he may be equally ſecured from the deluſions and errors inſeparable from mere ſpeculative and theoretic inveſtigations, he will be diligent in his attendance at the tribunals, from which law is declared and juſtice diſpenſed. He will familiariſe himſelf with the ſtage on which he is ſpeedily to act his part; and acquaint himſelf with the ſtrength, the addreſs, and the habits of the aſſociates and competitors with whom he is hereafter to co-operate and to contend. It is there that he will become verſed in the intricacies of legal uſages, and the forms of legal proceedings. It is there that he will learn what ſtatutes are obſolete, what are of partial and dubious authority; and will acquire, from the habitual obſervation of eminent examples, facility in diſcerning the knotty points of a cauſe, and promptitude in referring to the knowledge which he has accumulated and methodized.

Having furniſhed himſelf with the weapons appropriated to the warfare in which he is to engage, the Barriſter will in the next place

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ſtudy the diſcipline which enables the combatant to uſe them with ſkill and vigour. He will bend his mind to thoſe acquiſitions by which the talent of public elocution is ſupplied with early nutriment; and is at length enabled, when foſtered by the genial influence of practice, to produce fruit in mature perfection even in the chill and ſterile regions of Law. Conſcious that the ſpeaker in vain attempts to communicate with perſpicuity and force the ideas which impreſs themſelves feebly on his mind, or float before it in vague obſcurity; he will not diſdain to ſtrengthen and arrange his conceptions by the ſimple rules of rational logic. He will not be deterred from a beneficial habit by hearing it derided as mechanical. He will remember, that it is by the help of the ſquare and the compaſs that the nobleſt works of art are planned and executed. He will ſtudy the rules of oratory conſecrated by the recommendation of the antient maſters of eloquence; and while he avoids the folly of pedantic veneration for whatever has the ſanction of claſſical authority, he will not think thoſe inſtructions can be uſeleſs to the modern pleader, which flowed from the pens and have immortalized the names

of

of Cicero (*c*) and Quinctilian. He will be awake to the charms of graceful delivery, of manly and unaffected action. He will attend to the philosophy of the human mind; he will mark the tendency of the various passions, and the causes by which they are respectively excited and assuaged. In a word, he will seek for success not in the undisciplined sallies of brilliant abilities, however he may occasionally see them crowned with precarious reputation; but in the systematic observance of stable and fundamental principles suggested by reason, and confirmed by uniform experience. While he looks up to every thing which is excellent in his contemporaries at the bar, he will be early on the watch against contracting a relish for that dry, technical, and unimpressive style

(*c*) Let me not be understood to recommend an implicit observance of the rules delivered by Cicero. The rhetorician will in truth find more to approve in them than the moralist. The object of the Roman Orator in his pleadings seems to have been to gain his cause by whatever mode of argument or of abuse appeared likely to be effectual; and his instructions to others were naturally conformable to his own practice. Yet many of his directions are founded on solid wisdom; and are such as a Christian need not blush to adopt.

which

which prevails in the courts of juſtice; a ſtyle in ſome degree perhaps impoſed on men of the legal profeſſion by the abſtruſe and unalluring nature of the diſcuſſions, in which they are commonly engaged; but in a great meaſure reſulting from want of precaution againſt grow-ing habits, and from a neglect of the more ele-gant branches of literature. Were the pleader accuſtomed to warm his imagination by the ſtudy of thoſe efforts of eloquence which ſhook the Roman Senate, and rouſed the Citizens of Athens; were he to expand his genius and refine his taſte by intimacy with the firſt poets of antient and modern ages, and with the principal works of polite and ornamental learn-ing, which have appeared during the laſt and the preſent century in this country and in ſome other parts of Europe; he would tranſ-fuſe their ſpirit into his own exertions; he would pour forth his thoughts in elevated and flowing language; and, even when cramp-ed by rugged and impracticable ſubjects, would adorn his forenſic erudition with illuſtrative imagery, copious, though ſelect; and gleams of fancy, vivid, though chaſtiſed.

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In addition to the Courts of Juftice there is yet another and a nobler fchool of oratory open to the public, in which the Student may be inftructed and gratified by the grandeft difplays of modern eloquence. The facility of accefs which the Houfes of Parliament offer is a circumftance peculiarly advantageous to the youthful pleader, not only from the light which is thrown in the courfe of debate on controverted queftions of law; not only from the improvement to be derived from witneffing the eager contefts, the vigorous attacks, the wary methods of defence, exhibited by men of the moft confpicuous talents, rivals alike in abilities and interefts; but efpecially from this confideration, that the fpeakers are in general exempted by the nature of their functions from thofe defects to which pleaders are peculiarly expofed. The Houfe of Commons in particular affords the moft ftriking examples of that bold, exuberant, and rolling tide of elocution, fo rarely to be found at the bar. It muft however be remembered, that the fituation of parliamentary orators renders them liable to faults of their own, and to different faults in the different Houfes. Let not blind

admiration lead the young Barrifter to miftake defects for excellence; nor to forget that what is an excellence in Parliament cannot always be transferred with advantage to a Court of Juftice.

It remains under this head to fpeak of certain difpofitions and habits, which it behoves every man engaged in the profeffion of the law to cultivate with the utmoft folicitude; and of fome peculiar temptations, againft the effects of which he ought to guard himfelf with unremitting vigilance.

It is fcarcely neceffary to obferve, that uncorrupt integrity is a virtue fo naturally allied to the character of a man, whofe avowed office is to procure the eftablifhment of rights and the redrefs of injuries, that the poffeffion of it affords little claim to praife; the want of it enfures indelible infamy. In the common courfe of proceedings, allurements to difhonefty and breach of truft will rarely exhibit themfelves in very attractive colours. The Barrifter on whom religion has little hold, will in general be reftrained by the principle of honour.

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He who looks only to emolument will tremble left detection, an event ever to be dreaded from the ſcrutinizing accuracy of legal tribunals, and the keen-eyed ſuſpicion of his opponents, ſhould blaſt the golden harveſts which he beholds in idea ripening for diſtant years. And he whoſe conſcience is alive to the dictates of Chriſtianity, will recoil at the bare mention of a crime, which he knows would not be unſeen by his Almighty Judge; and muſt ere long be blazoned before men and angels, though obſcured at preſent by every poſſible precaution, and committed in the deepeſt receſſes of ſolitude.

Benevolence in its moſt enlarged meaning ought to poſſeſs the breaſt of the Barriſter. It will incline him not only to be affable and kind and attentive to thoſe who entruſt him with the management of their concerns; but rather to adviſe the adjuſtment of diſputes by amicable arbitration, than by referring them to the deciſion of the laws. It will teach him more particularly to diſcountenance the proſecution of ſuits which are on the point of taking place between near relations; or which

appear to originate in motives of pique, malice, or revenge. It will lead him to confider himfelf as the patron of the poor and friendlefs, the defender of the fatherlefs and the widow. It will co-operate with the fuggeftions of integrity in deterring him from buoying up his client with unfubftantial hopes of fuccefs; and will prompt him to be explicit as to the probable charge as well as event of the caufe; to be moderate in his own demands of recompenfe; and to adopt, as far as may properly be done, fuch methods of conducting the bufinefs as afford a profpect of leffening the expence and allaying the animofity of both the contending parties. It will alfo contribute to fecure him from the danger of becoming abforbed by interefted and worldly views; a difpofition not unlikely to be acquired by being perpetually converfant in queftions of property; and from gradually contracting a felfifh narrownefs of fpirit, and a pronenefs to infift in private life on his own rights with unrelenting rigour, in oppofition to the fuggeftions of kindnefs and forbearance. It will preferve his natural fenfibility from being blunted, and the warmth of his affections

affections from being chilled, by habits of familiarity and ſocial intercourſe with men for whom he does not entertain a real friendſhip. And finally, it will reſtrain him from indulging a cenſorious and diſtruſtful opinion of mankind in general; an opinion which commonly finds eaſy acceſs into the mind of him, who lives in the daily contemplation of ſcenes of fraud, of rapacity, and of violence; and, if it be not radically extirpated, extinguiſhes every generous ſentiment, and petrifies the heart.

As induſtry in the acquiſition and in the application of profeſſional knowledge is one of his moſt prominent duties; he will be on his guard againſt indolence, fickleneſs, irreſolution, immoderate love of amuſements, and againſt every enſnaring and diſſipated habit, the natural effect of an overgrown, wealthy, and luxurious capital. He will fortify himſelf againſt the contagion of profligate examples. He will beware of being betrayed into a neglect of the public and private duties of religion; or into the ſcepticiſm and infidelity too prevalent, if public report is to be credited, among the ſtudents and practitioners

of the law; and will qualify himſelf, "and be "ready, to give to every one that aſketh, a "reaſon of the hope (*d*) which is in him."

He will ſtrive to eſcape that *eſprit de corps* which ſo often leads profeſſional men into unjuſtifiable and diſgraceful practices; and to wean himſelf from an improper bias in favour of the particular court to which he is attached, and a groundleſs diſlike to the forms and proceedings of other co-ordinate tribunals. He will evince a proper conſciouſneſs of the danger to which the man whoſe vocation is controverſy ſtands peculiarly expoſed, of contracting a daring firmneſs of forehead; peeviſh, petulant, and overbearing manners; a cavilling and diſputatious turn of mind; and a waſpiſh and irritable temper. He will not look either on men or on books with an eye diſpoſed rather to diſcover and to dwell on blemiſhes, than to contemplate with pleaſure and advantage what is deſerving of approbation and capable of being inſtructive. He will not conſider every topic which preſents itſelf in the intercourſe of familiar converſation, and

(*d*) 1 Pet. iii. 15.

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the circle of domeftic fociety, as an object of contention. He will not look upon every man who ventures to give an opinion, as throwing down the gauntlet of defiance. If he judges it right to diffent from what he hears, and to ftate the reafons in which his difference of fentiment originates; he will not refort to thofe captious objections, nor manifeft thofe rhetorical arts, and that reluctance to conceffion, which, if pardonable in the profeffed advocate of a party in a fuit, ill become the candid enquirer after truth in the unrefervednefs of private difcuffion. He will not give vent to cutting and ungenerous farcafms againft thofe who differ from him; nor indulge himfelf, when they are no longer able to refift his arguments, in the oftentatious arrogance of victory.

The Lawyer who is frequently engaged in refifting what he ftrongly fufpects to be juft, of maintaining what he deems to be in ftrictnefs untenable, of advancing inconclufive reafoning, and feeking after flaws in the found replies of his antagonifts, can be preferved by nothing fhort of ferious and invariable folicitude from the rifk of having the diftinc-

tion between moral right and wrong almoſt eraſed from his mind; or of ſuffering their diſcriminating characteriſtics to be ſo far weakened, as to be incapable of attracting his attention except in caſes of flagrant enormity.

Through the operation of the ſame cauſes, and the neceſſity which his employment impoſes on him of frequent and indiſcriminate aſſociation with men of every variety of character, he is liable to acquire a ſort of indifference as to the virtuous or vicious habits of his companions; and in the choice of his friends to attend merely to profeſſional abilities and advantageous connections, diſregarding the recommendation of pure morals and chriſtian piety.

He is not leſs obnoxious to the temptation of gradually permitting himſelf to conclude, that whatever is right in law is alſo morally and politically right. Accuſtomed to behold the deciſions of courts of juſtice appealed to in every diſpute, received with reverence, and obeyed with implicit ſubmiſſion; accuſtomed to behold thoſe deciſions founded on legal precedents; he learns at length, unleſs he ſtands

ſtands firmly on his guard againſt the bias of habit, to contend that no rights exiſt, except ſuch as thoſe precedents recognize; he conſiders the opinion, that individuals may retain natural rights concerning the exiſtence or proper exerciſe of which precedents may be ſilent, as leading to ſedition and anarchy; and treats perhaps the exiſtence of any determinate natural rights whatever as the dream of viſionary ſpeculation. He becomes uniformly averſe to innovation, and to reform; becauſe they imply a change. He vindicates practices, however immoral in their immediate or remote effects, however oppreſſive and iniquitous to foreign nations, if they have been ſanctioned by long eſtabliſhed uſage; eſpecially if property of any kind ſhould ſeem likely to be rendered leſs valuable by the diſcontinuance of them. He indiſcriminately oppoſes meaſures calculated to extend popular freedom beyond its exiſting boundaries. He turns to his precedents. By them he finds the preſent ſtate of things ſupported, and he is ſatisfied. He deems it ſacrilegious to change what courts of juſtice have adopted as the baſis of their decrees;

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and presumptuous to question as unwise what antient sages of the law have dignified with their approbation. If precedents are discovered of an opposite kind, he admits them with reluctance. He contends at once that they are derived from turbulent and unenlightened times; that they are counteracted by more numerous or more respectable authorities; or that they have become obsolete by disuse, or have been annulled by implication in subsequent statutes. If unable to maintain these positions, he takes refuge in the letter, regardless of the spirit of the precedent; and, by requiring proofs of an exact similarity between the original case to which it refers, and that to which it is intended to be applied, exempts himself from the obligation of obeying it further than that coincidence is established; and not unfrequently from the obligation of obeying it at all (*e*).

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(*e*) The subjoined extracts from Sir William Blackstone's Commentaries shew that professional prejudices were able occasionally to influence his comprehensive and cultivated mind.

"In a full assembly of the Lords and Commons met in "a convention upon the supposition of this vacancy (of the

The bare recital of these prejudices, and of the conduct to which they lead, may admonish the Barrister to guard against the one and the other; and to imitate the numerous examples of individuals of his profession, who

"the throne), both Houses came to this resolution: "that King James the Second, having endeavoured to "subvert the Constitution of the kingdom by breaking "the original contract between King and People; and "by the advice of Jesuits and other wicked persons having "violated the fundamental laws, and having withdrawn "himself out of the kingdom, has abdicated the govern-"ment, and that the throne is thereby vacant." Vol. i. p. 211.

"*And so far as the precedent leads, and no farther*, we "may now be allowed to lay down the *law* of redress "against public oppression. If therefore any future Prince "should endeavour to subvert the Constitution by break-"ing the original contract between King and People, "should violate the fundamental laws, and should with-"draw himself out of the kingdom; we are now autho-"rized to declare that this *conjunction* of circumstances "would amount to an abdication, and the throne would "be thereby vacant. But it is not for us to say that any "*one*, or *two* of these *ingredients* would amount to such a "situation; for there our precedent would fail us." Vol. i. p. 245.

So meagre an interpretation of the precedent, resting literally on the terms in which it is couched, and neglect-

who have proved themſelves endowed with minds ſufficiently enlarged to withſtand the force of thoſe temptations, to which by their employment and habits they were peculiarly expoſed.

Such

ing the great principles of Civil Government on which it was founded, would leave Engliſhmen little reaſon to appeal to the Revolution in ſupport of their rights in the caſe of future " public oppreſſion." For it is highly probable, that if acts of deſpotiſm ſhould ever hereafter take place, they will not diſplay *a conjunction of all the ingredients* which the learned Judge pronounces neceſſary to be mingled together before it will be lawful to recur to the precedent of 1688. And it is further to be obſerved, that he has omitted a conſpicuous part of the precedent, although every part of it, according to his own rule, is indiſpenſably to be received with equal reverence and obſerved with equal ſtrictneſs. The reſolution of the Convention Parliament expreſsly ſtates, that the fundamental laws were then violated by the King, *through* " *the advice of Jeſuits*, and *other wicked* perſons." If therefore ſome future Monarch ſhould endeavour to ſubvert the Conſtitution by breaking the original contract (that is to ſay, the Coronation oath; Blackſtone, vol. i. p. 234); ſhould violate the fundamental laws, and withdraw himſelf out of the kingdom; yet, unleſs it ſhould further be proved that he had violated thoſe laws " by the advice of Jeſuits;" and not only by the advice of Jeſuits, but likewiſe by the advice of " other wicked perſons," the precedent would

Such however is the nature of the human mind, that moral causes, which in some respects exert on it a pernicious influence, are productive under certain circumstances of beneficial effects, tending to counterbalance the evils flowing from the same source. This general principle may receive illustration from the present subject. The same reverence for antient institutions, the same abhorrence and jealousy of innovation, the same punctilious attachment to prescription and precedent, which may incline members of the legal pro-

would be, on Sir William Blackstone's principles, altogether inapplicable and useless.

It should be added however, in justice to Sir William Blackstone, that he repeatedly adopts a very different tone. Thus he affirms, vol. i. p. 43, that the Revolution, though "it might in some respects go *beyond the letter* of our antient laws, was agreeable to the spirit of our Constitution, and the rights of human nature." And speaking, p. 241, of cases of oppression not exactly similar to that which produced the Revolution, he refers "future generations, whenever necessity and the safety of the whole shall require it, to the exertion of those inherent, though latent, powers of society, which no climate, no time, no constitution, no contract, can ever destroy or diminish."

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feſſion to behold with extreme ſuſpicion every unuſual though warrantable exerciſe, and to oppoſe with perſeverance every material though fit extenſion, of popular privileges; has often rendered them alive to encroachments on the legal rights of their fellow ſubjects, and prompt to defend their acknowledged franchiſes.

II. We are in the next place to conſider the duties of a Barriſter in conducting a cauſe previous to and during the trial.

1. When requeſted to engage in the management of a ſuit, he will in the firſt place take ſuch a view of its leading features, as may enable him to decide whether it falls under that deſcription of cauſes, with which only it becomes a conſcientious Advocate to be concerned. He will beware of involving himſelf, through haſte and inadvertency, in cauſes of ſo objectionable or ambiguous a nature as to make it not improbable that he may afterwards find himſelf reduced to the trying alternative of abandoning them, to the injury of his Client, or perſevering in them, to the

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wounding of his own conſcience. He will not raſhly expoſe himſelf to the imputation of being rendered blind to enormities by the deſire of gain; nor hazard his character for patience and aſſiduity, by appearing to have entangled himſelf in a tranſaction without previous enquiry into the circumſtances attending it. He will recollect too, that particular incidents may make it unfit for him to be concerned in a cauſe, in the management of which another perſon might ſtand forward without impropriety. He will therefore keep himſelf clear from engaging in a legal proceſs, when his interference is likely to be aſcribed to perſonal pique and animoſity. Let him not lay himſelf open to the ſuſpicion of employing the poniard of revenge, while he appeals to the ſword of juſtice. As the bias of intereſt will commonly lie on the ſide of undertaking the buſineſs propoſed, let him ſuſpect himſelf of being actuated by it imperceptibly, and form his determination with proportionate coolneſs and ſolicitude; and be no leſs careful to repreſs abſurd and unjuſtifiable ſuits among the opulent, than among the poor. But when he has

has fully ſatisfied all the ſcruples which integrity and prudence may ſuggeſt, let him not indulge ſuch as are unneceſſary. Let him conſider the time which the perſon applying to him has loſt by that application, and the conſequent inconvenience which he may have ſuſtained; the unfavourable light under which his cauſe would be preſented to another Counſel, if it ſhould have been rejected by a man of judgement and reputation; and the ſtigma under which it would for the ſame reaſon be introduced into a court of juſtice. Nor ſhould he forget, that if Barriſters of eminent characters and talents were frequently to decline cauſes on inſufficient grounds; the reſult would be, that the larger proportion of the perſons who are obliged to have recourſe to legal tribunals, foreſeeing the prejudice which their ſuits would receive if their application ſhould be rejected, would transfer their concerns into the hands of needy and unprincipled chicaners, who would be careful not to diſguſt ſuch as ſhould conſult them by a ſuperabundance of faſtidious delicacy. In the preſent complicated ſtate of civil ſociety, the prevailing

vailing influence of men of this defcription would be of inexpreffible detriment to the public peace and welfare.

Whatever may be the conduct of the Barrifter as to undertaking or declining the caufe; it is his duty to form his decifion with difpatch; and to impart it to the perfon interefted as foon as it is formed. To the latter every moment is precious. If he cannot obtain affiftance from the quarter where he firft folicits it, he has at leaft a claim not to be precluded by unreafonable delays from feeking it elfewhere. And cafes may eafily be fuppofed, in which fuch delays may prevent him from applying to another Counfel early enough to be prepared to meet his adverfary, who may be aware of his embarraffments and contrive to precipitate the trial. Thus, by the dilatorinefs of the Advocate originally confulted, Juftice may be altogether defeated; or be reduced to the neceffity of eftablifhing her demands by reiterated fuits and immoderate expence.

The engagements which a Barrifter contracts by agreeing to be concerned in a caufe, are

are by no means ſuch as to preclude him from flinging it up, if at any time previous to its coming to a hearing, or while it is upon trial in open court, he ſhould diſcover it to be of that deſcription which it would be improper for him to defend. Though no reſervation of this kind may have been expreſſed in his converſations with his Client; it is ſo plainly enjoined by the common principles of rectitude, and ſo conformable to the ſettled practice of the Bar, that it muſt ever be preſumed to have been mutually underſtood. It is not always that a cauſe bears its true character ſtamped upon its forehead. Long and intimate acquaintance may be requiſite to the diſcovery of the inherent ſtain. But whenever it is diſcovered, let not the Advocate be ſeduced by erroneous ideas of conſiſtency, by falſe ſhame, by avarice, by ambition, by a ſpirit of rivalſhip, or by a fondneſs for diſplaying his talents, to perſiſt in the attempt, and thus tranſfer a part of the diſgrace, and of the guilt, from the cauſe to himſelf.

If the Barriſter thinks it right, after examining into the nature of a ſuit at the requeſt

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of one of the parties, to decline being his Advocate; it can ſcarcely ever be fitting in the common courſe of things for him to engage in it on the other ſide. He would be in perpetual danger of inadvertently making uſe of knowledge confidentially communicated to him by the firſt applicant. And even if he ſhould be able to guard againſt it by rigid circumſpection, he would ſtill have to contend with the charge of perfidy, which would almoſt infallibly be circulated by his opponents; and might readily gain credit with the public, prone to lend a willing ear to rumours diſadvantageous to eminent characters.

The Barriſter cannot be ignorant that, by undertaking a cauſe, he impliedly promiſes to give that degree of attention to it in every ſtage of its progreſs, which in his conſcience he deems ſufficient, and which the client may reaſonably demand. If therefore he undertakes it at a time when he knows that the preſſure of prior claims, or a multiplicity of other inevitable avocations, makes it probable that he ſhall not have the requiſite leiſure, and does not previouſly explain his ſituation to his

his employer, he is guilty of deliberate fallehood.

When once he has confented to accept the charge, an upright Advocate will exert himfelf with diligence to become thoroughly mafter of every important circumftance of the cafe. Unwilling to be inftrumental in leading his Client to perfift, by holding out to him rafh hopes of fuccefs, or to recommend on a hafty and fuperficial view any particular mode of conducting the fuit; he will explore every branch of the bufinefs with accuracy, caution, and impartiality. He will carefully weigh the contents of the papers and inftruments delivered to him. By repeatedly queftioning and fifting his Client, he will at length draw forth that full and complete account which, though generally to be obtained from him by perfevering interrogations, yet, from the natural unwillingnefs of men to difcover the weak points of their own caufe, is fcarcely ever voluntarily offered. He will enquire and revolve what is to be urged in oppofition to the claims of his employer. He will fet on foot, as far as circumftances admit, by means

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of ſubordinate agents, a vigilant ſearch after collateral proofs and auxiliary documents, capable of throwing light on either ſide of the queſtion. He will not omit the inveſtigation of parallel or analogous caſes which have already been decided in courts of juſtice; nor heſitate to apply for advice to other Counſel, if, through the perplexing circumſtances of the caſe before him, he ſhould find himſelf unable to form a decided judgement, or ſhould be conſiderably diſtruſtful of his own opinion.

If after full deliberation the proſecution of the ſuit to trial be finally determined, he will not prefer a particular method of proceeding, from views of perſonal emolument, to another more eligible for his employer; and if two methods appear equally conducive to ultimate ſucceſs, he will adviſe that which promiſes to be the leaſt irritating, dilatory, and expenſive both to his Client and to the oppoſite party. When conſulted reſpecting the evidences (*f*) to

(*f*) The Counſel frequently leaves his purveyor the Attorney to collect as many witneſſes as poſſible, that he may be able to call a greater or a leſs number as he ſhall find

to be brought forward, he will not burthen his own ſide with an unneceſſary number; nor purpoſely take meaſures, otherwiſe needleſs, with a view to lead the other party to impoſe a ſimilar burthen on themſelves. He will not countenance an extravagant expenditure of parchments, writs, and other implements of legal artillery; although by connivance he might conciliate the favour and future recommendations of a rapacious Attorney.

Such are the duties (*g*) of a Barriſter while the cauſe is on its way to the proper tribunal.

find it expedient. Caſes however may occur, in which, at the ſame time that he takes all reaſonable precautions to enſure ſucceſs to his Client, he may be able greatly to leſſen his expences by pointing out evidences whoſe attendance is not requiſite. Such opportunities a conſcientious Advocate will never diſregard.

(*g*) The duty of giving honeſt advice, and of taking pains by ſufficient reflection, by reading, and, if difficulties occur, by conſulting other profeſſional men, to render that advice ſound and correct, attaches no leſs on the Barriſter when the matter in queſtion is of a private nature, than when it is to be brought by him before a Court of Juſtice. And the injury ariſing to thoſe who apply to him, from his want of integrity or of attention, may prove as great in the former caſe as in the latter.

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Let us now attend to the obligations incumbent on him when it arrives there.

2. By attending to the nature of the ſituation in which a Barriſter ſtands, it will be eaſy to diſcern what kinds of arguments he may conſcientiouſly bring forward in ſupport of the cauſe which he has undertaken. He is avowedly the advocate of a particular ſide of the queſtion. The judges, the jury, the parties involved in the diſpute, the whole audience before whom he pleads, the public, whoſe intereſt is always concerned in the final deciſion, conſider him as acting in that capacity. They expect to hear from him every adjudged caſe, every fact, every direct or analogical argument founded on precedent or on fact, which he is perſuaded ought to have an influence propitious to his cauſe on the ſcale of legal juſtice. They expect more from him. They know that it pertains to his character to reflect that the Court may determine, and rightly determine, in his favour, on grounds which previouſly to the trial he might regard as not entitling him to ſucceſs. They expect him therefore to produce every train of legal

 reaſoning,

reaſoning, though to his own mind it may appear inconcluſive, which he hopes may yet be declared ſatisfactory by an able and impartial tribunal. They expect him to take advantage of informalities and errors in the proceedings of his adverſaries, as far as he is fairly authorized by law and cuſtom. They expect him to preſs, to ſtrengthen, and to decorate his own cauſe, and to invalidate the efforts of his opponents, by manly and honeſt eloquence.

In adopting a line of conduct correſponding to theſe not improper expectations, he is guiltleſs of injuſtice and deceit. The weapons which he uſes are recognized by the rules of fair and honourable war; and he has a right to handle them as effectually as he is able. But he has no right to have recourſe to arms which integrity would bluſh to employ, or which are proſcribed by the eſtabliſhed mode of forenſic hoſtilities. He is not at liberty to aſſert any falſe propoſition; nor to urge as a fact, what he knows never to have taken place; nor to advance as a principle of law, what he is conſcious that ſtatutes and legal uſages contradict. Practices of this kind are of ſo ſcandalous a

nature,

nature, that he who ſhould indulge himſelf in them would not only prove himſelf devoid of uprightneſs of heart; but would be held to have departed from the profeſſional point of honour, and would fall into merited and univerſal diſgrace.

There are however other deviations from the line of duty which occur not unfrequently at the Bar; and are of too indeterminate a kind to be accurately ſpecified, and expreſsly prohibited by general rules. They of courſe eſcape, except in very flagrant caſes, the open reprehenſion of the Court, and the public cenſure of the profeſſion. Each individual Barriſter is left to ſecure himſelf from the danger, by purity of intention and ſenſibility of conſcience. The following obſervations relate to ſome of the practices in queſtion.

As the Barriſter, when pleading in Court, ought to ſhun with the utmoſt ſolicitude the appearance of being urged on by malice or perſonal inveteracy; of being induced to engage in the buſineſs, not from a deſire to ſubſtantiate right and promote the public good, but from

eagerneſs to hunt down a private enemy; ſo he ought to ſecure his breaſt with unremitting vigilance from the intruſion of bitterneſs and malevolence towards the oppoſite party. Whether therefore the cauſe in which he is concerned leads him to attack or to defend; whether he contends for the maintenance of rights enjoyed, or for the recovery of ſuch as are withheld; for the vindication of innocence; for the reparation of injuries; or for the puniſhment of crimes; let him reſolve from the outſet to preſerve a temper unruffled by provocations, and to regulate his thoughts, his words, and his whole conduct, by the chriſtian precept of doing to others as under ſimilar circumſtances he might juſtly expect them to do to him. If actuated by this principle, he will beware of being ſo carried away by the rapidity of his own motion, ſo heated in action, ſo thrown off his guard, as to loſe his compoſure and ſelf-poſſeſſion; and to make aſſertions, to advance arguments, to practiſe arts and give way to emotions, which in his cooler and more collected moments he would condemn. He will uniformly act with candour towards the Client of his antagoniſts:

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he will not endeavour to excite unjuſt prejudices againſt him; nor avail himſelf of thoſe which may already have been excited. He will be anxious to ſeparate the queſtion of law from that of character, in all caſes in which they are not neceſſarily connected; and even where they are blended together, far from loading the man, againſt whom he demands a verdict, with calumnious obloquy and ungenerous reproaches; he will not ſeek to depreciate, nor heſitate to avow, the merits which the object of his attack may poſſeſs. He will not repreſent the cauſe which he ſupports, or the ſentence which he requires, as more important than he believes them to be to the public welfare. He will ſpontaneouſly undeceive the Court, if he ſhould diſcover them to entertain conceptions of the matter before them in any reſpect erroneous, though he ſhould foreſee that his ingenuouſneſs will be diſadvantageous to his cauſe. If his proofs reſt on preſumptions and probabilities alone, he will not contrive indirectly to convey an impreſſion that he is arguing from acknowledged facts; nor will he boldly pronounce a maſs of circumſtantial evidence entitled to a

degree of weight which he is convinced it ought not to obtain. He will reflect that exaggeration, however it may have been defined by the masters of rhetoric, generally proves, according to modern usage, but another name for falsehood. He will not pay court to the foibles, nor avail himself of the prepossessions, of the Judge. He will not strive to impose on the ignorance of the Jury (*h*), nor entrap them into the service of his Client, by practising on their partiality for himself. In urging legal argument, as well as in relating transactions to them, he will study to lay every particular before them with fairness and perspicuity; and in such a manner as he deems most likely to put them into possession of the true nature of the case. In addressing them, while he avails himself of his powers of oratory to raise in their breasts a sympathetic concern for the person whom he defends, and to place his claim before them in the most attractive garb with which sincerity will permit him to invest it; he will not attempt to pervert their

(*h*) The conduct of some Counsel in this respect is as highly to their honour, as that of others is said to be disgraceful and unjust.

judgement

judgement by leading them to view the ſubject merely through the dazzling medium of their paſſions.

Towards the evidences produced, whether on behalf of the plaintiff or of the defendant, he will conduct himſelf according to the principles of fair dealing. He will admoniſh all of them with equal impartiality and ſolicitude of the ſacredneſs of an oath. He will not repreſent thoſe who come forward in ſupport of his Client as entitled to be believed, when he diſcovers that they are unworthy of confidence; he will not defame the witneſſes of the adverſe party; nor, by ſuggeſting illiberal ſuſpicions and reſorting to unreaſonable cavils, ſtrive to rob their teſtimony of the credit which it deſerves. He will not overawe their timidity by brow-beating and menaces, nor impoſe on their ſimplicity by ſophiſtry and cunning. He will not ſeek by oblique artifice to lead the evidences on either ſide to affirm facts of the certainty of which they are doubtful; nor inſidiouſly labour to extract from their words a ſenſe foreign to their intentions. He will abhor the idea of drawing thoſe who

appear

appear againſt him into any ſeeming contradictions and perjury, when he perceives their meaning to be honeſt, and their ſtory in reality conſiſtent.

It is happily ordered by Providence, that in the common courſe of human events the paths of duty and policy are found ultimately to coincide. The number of examples by which this general propoſition is illuſtrated, may be increaſed by referring to what takes place at the Bar. The indulgence of unwarrantable practices is proved by experience to be generally inauſpicious to the very cauſe which they are intended to aſſiſt; and finally ruinous to the character of the man who is accuſtomed to recur to them.

When the queſtion which has been determined is of ſuch a nature, that there are means of bringing it again before a court of juſtice; the Barriſter who is conſulted reſpecting the propriety of proceeding to a new trial, may find ſome of the obſervations recently made under the preſent head *(i)* applicable to that ſtate

(*i*) Vide ſupra, p. 368, &c.

of

of the buſineſs. Several of the conſiderations alluded to will derive additional force, from the circumſtance of the cauſe having already experienced an unfavourable deciſion.

III. The third diviſion of our enquiry into the duties of the legal profeſſion reſpects the peculiar ſituation of thoſe Barriſters who are Members of the Houſe of Commons.

It may be proper however, antecedently to any diſcuſſion of the topics expreſsly belonging to this head, to warn the young Barriſter againſt precipitately and prematurely entering into Parliament. In addition to the preliminary circumſtances and motives, already ſtated in their proper place, which he is bound, in common with every man who deliberates on the fitneſs of ſtanding forth as a candidate, ſeriouſly and impartially to eſtimate; other conſiderations reſulting from the nature of his profeſſional employment preſs forward to be taken into the account. If he is not already maſter of an independent fortune, let him reflect on the danger of being ſeduced, by the ſtronger

ſtronger attractions of his new avocation, to loſe the character and habits of a Lawyer in thoſe of a Politician. If the loſs of his ſeat at a ſubſequent election, if diſappointed expectations of parliamentary eminence, or the preſſure of a contracted income no longer to be withſtood, ſhould drive him back to Weſtminſter Hall; in vain may he hope to overtake his former companions at the Bar, who began their career together with himſelf, and are now by ſteady perſeverance far on their way to profit and honours; while, in conſequence of having been retarded by foreign purſuits, he finds himſelf advanced but a few ſteps from the ſtarting-poſt. It is poſſible that ſplendid talents and uncommon exertions might recover the ground which he has loſt: but ſplendid talents fall to the lot of few; and he who is endowed with them is ſeldom diſtinguiſhed for uncommon exertions. Better would it have been, had he been contented to have moved in his peculiar ſphere, until in proceſs of time he had become too conſpicuous to be diſregarded or forgotten. Better would it have been, not adventurouſly to have launched on the troubled ocean of po-

litics,

litics, until he had ſecured to himſelf in his own province the refuge of a ſafe and ſheltered harbour.

The moſt obvious and the moſt powerful temptation to which the Lawyer, who is likewiſe a Member of the Houſe of Commons, ſtands expoſed, is that of being imperceptibly led to proſtitute his profeſſional attainments and character for the ſake of political advancement. This enſnaring lure will be particularly formidable to his integrity, if, in conſequence of raſhly entering into Parliament early in life, he has neglected his proper buſineſs; or, depreſſed by the ſuperior abilities and good fortune of his competitors at the Bar, has made long and hitherto ineffectual ſtruggles to arrive at legal eminence. Yet it is not ſeldom that it captivates the pleader in the fulneſs of practice, and in the height of reputation; who adding to his other honours that of being one of the popular repreſentatives, perceives that, by a dextrous management of his eloquence and ſuffrage, he may open to himſelf a road to ſtations of the higheſt dignity and emolument. It cannot be ſufficiently lamented, that through

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the predominance of that party-ſpirit by which this nation has long been diſtracted and diſgraced; and through the looſe and ſuperficial notions of morality prevalent among public men, notions teaching them to conſider almoſt every meaſure as juſtifiable which they deem to be expedient for themſelves and their friends; theſe methods of riſing, and others equally unbecoming, are by no means ſtigmatized with the infamy which they deſerve. The effect which the frequency of ſuch practices, and the little cenſure attached to them, ought to produce on the mind of a reflecting and conſcientious man, is that of determining him to guard againſt being betrayed into them with redoubled vigilance and caution. He will not ſuffer himſelf to be taken in tow, like a diſabled frigate, by the embattled ſquadrons of Miniſtry or of Oppoſition; but will reſolutely ſteer an independent courſe, and at all times be ready to hoiſt his ſails to the wind, from whatever point of the compaſs it may blow, if it be likely to conduct him forward in the track of public happineſs. If he ſhould finally accept employment or promotion, he will not do it until he has given his country

ſufficient

ſufficient grounds to conclude that his elevation is not the ſtipulated return for guilty compliance and venal ſervility; but the reward of profeſſional merit, of warm and unblemiſhed patriotiſm.

Another temptation, to which a parliamentary Lawyer of talents and connections is very liable, is that of acquiring an undue partiality in favour of the influence of the Peerage in the Britiſh Conſtitution. In the Houſe of Lords he beholds many of the celebrated ornaments of the Bar reſting in honourable repoſe, perhaps inveſted with high official ſituations. He beholds the more fortunate of his cotemporaries and companions ſucceſſively arriving at the ſame haven. He liſtens to the voice of ambition, which tells him that ere long he will anchor by their ſide. Actuated by theſe hopes, the completion of which, not improbable in itſelf, appears to his eager inclinations every thing but certain; he becomes prone to extend, even at the expence of the powers which he now poſſeſſes as a Member of the Houſe of Commons, the authority and privileges which he expects hereafter to ſhare

as a Peer, and to tranſmit to his lateſt poſterity.

Such are the failings into which a Barriſter who has a ſeat in the legiſlature may be ſeduced by motives of intereſt. There are others into which it is highly probable that he may be impelled by habit. I have recently ſpoken of the danger which he incurs of forgetting his profeſſional character. I now ſpeak of the hazard which he runs of remembering it too well. The Lawyer in the exerciſe of his peculiar functions is avowedly an advocate of one ſide of a queſtion. It is his known office to allege, within certain limits, every thing which he judges likely to conduce to the ſucceſs of his cauſe; and, under ſimilar reſtrictions, to raiſe every objection, either in point of fact, or of probability, or of form, by which he may hope to impede or to prevent the ſucceſs of the oppoſite party. But the ſituation of a Member of Parliament, when engaged in debate, whether it be in a plan of attack or of defence, is fundamentally different. He is the advocate, not of this or of that particular meaſure, but of the national

national welfare; not of this or of that individual, but of the people of Great Britain. He is to urge no arguments which he does not think fairly applicable to the ſubject under diſcuſſion, and ſuch as ought to have an effect on the deciſion of the Houſe. He is not to avail himſelf of the imprudence and errors of thoſe who maintain an opinion adverſe to his own, in order to carry into execution a ſcheme which his ſober judgement diſapproves; or to thwart the propoſals of perſons arranged under the banner of an obnoxious political chieftain, when he feels himſelf conſtrained to admit that the accompliſhment of them promiſes an increaſe of public happineſs. The reaſon of this difference is obvious. The Barriſter ſimply ſtates his arguments, and leaves others to pronounce on their validity. The Member of Parliament unites, with the office of a debater, that of a Judge. The Barriſter poſſeſſes no voice in determining the ſentence which he ſolicits. The Member of Parliament, after having ſpoken in favour of a bill, contributes by his vote to enact it into a law. It is obvious then that a Lawyer who acts in both capacities, however he may be preſerved by his

rooted habits from adopting in court the ill-timed liberality of a parliamentary orator, will be in confiderable danger of introducing into his political exertions the no lefs ill-timed narrownefs of *ex parte* pleadings. He will not find it as eafy to diveft himfelf of his legal practices as of his legal habiliments. He will not readily forget in the evening, when contending in the Houfe of Commons, the character in which he had in the morning contended in Weftminfter Hall.

The effects of habit, unlefs they are provided againft with early and fcrupulous care, will be no lefs confpicuous in his ftyle and manner than in the nature of his reafoning. He will manifeft a propenfity to the ufe of cramp terms and technical jargon; to an oftentation of methodical arrangement; to fubtle and refined diftinctions; to a dry and uninterefting mode of delivery; to petulant and fnappifh altercation. It is rarely that the Houfe of Commons exhibits feveral cotemporary inftances of Barrifters, who have fhaken off the defects almoft infeparable from their profeffion; and difplay that bold and impaf-

fioned

ſioned eloquence calculated to ſway a popular aſſembly.

The Parliamentary Lawyer may be of eminent uſe in protecting the exiſting laws, and the eſtabliſhed courſe of legal proceedings, from being gradually impaired or unneceſſarily varied either through ignorance or deſign. He is not unfrequently conſulted, and his ſuggeſtions are ſometimes perhaps adopted without public acknowledgment, by the private Member of Parliament; who, however able to diſcover defects in the exiſting ſtatutes, and hardſhips reſulting from their operation, is not always competent to produce a remedy capable of being commodiouſly incorporated into a ſyſtem complicated like that of our laws, and compoſed of ſo many jarring elements. But let the Barriſter beware leſt his attachment to precedent, and his general abhorrence of innovation, topics on which there is the leſs occaſion to dilate at preſent, as they have been amply diſcuſſed in a former part of this chapter, lead him indiſcriminately to oppoſe ſalutary changes and reforms. More eſpecially let him learn to

ſuſpect himſelf, to ſift his motives, and to ſearch his heart to the bottom, if he finds himſelf on the verge of haſtily reſiſting plans interfering with ſome of the powers, privileges, or forms of Courts of Juſtice, and their dependencies; or propoſals apparently pointing to the extenſion of ſome of the rights of the people. And if he perceives his brethren of the profeſſion united in countenancing or in oppoſing any particular meaſure; let him be on his guard againſt being induced to co-operate with them rather by ſympathy, and the *eſprit de corps*, than by fair and deliberate conviction.

The Barriſter who has a ſeat in the Houſe of Commons is not to forget his Clients at the Bar, nor to ſacrifice their intereſts to his political purſuits. It may indeed be alleged, and with truth, that his employers are conſcious of his parliamentary avocations; and, by ſpontaneouſly preferring his aſſiſtance to that of another Counſel, ſhew themſelves willing to ſubmit to the inconveniences neceſſarily ariſing from them. But he is not to make uſe of this plea as an excuſe for needleſs inat-

tention

tention to their concerns; nor for wilfully failing to ſatisfy the expectations, which he knows himſelf to have excited in their minds.

It commonly happens that a Parliamentary Lawyer of diſtinguiſhed merit has the option, ſooner or later, of one of thoſe high legal ſituations, the poſſeſſors of which are conſidered as in the immediate ſervice of the Crown. The obſervations already made in a former chapter appropriated to the duties of the Executive Officers of Government, though without a direct reference to theſe particular poſts, may ſufficiently explain the general motives by which he ought to be influenced in accepting or declining the ſtation propoſed; in diſcharging its duties; and, finally, in reſigning it. It remains only to add the following very neceſſary caution: That he is not to conceive himſelf, when poſſeſſed of the office, as leagued on the ſide of the Crown againſt the People; nor pledged to ſupport the exiſting Adminiſtration in meaſures at which his underſtanding and conſcience revolt; nor at liberty to purſue as libellers and

fomenters of ſedition, thoſe who cenſure the meaſures of Government, or canvaſs any real public grievances, with candour, fairneſs, and moderation.

IV. Our fourth general head was allotted to an enquiry into the peculiar duties of Judges.

Among the many important advantages reſulting to ſociety from the inſtitution of an order of Barriſters, we are to place this in the foremoſt rank; that it ſupplies a continual ſucceſſion of men qualified and worthy to preſide in the Courts of Juſtice. Were it not for this nurſery, in which Merit is trained under the directing hand of Experience; this probationary ſtage, on which the Student at once makes himſelf maſter of his profeſſion, and gives public proof of his attainments; how could we hope, in a country like Great Britain, wherein the unlimited diffuſion and complicated nature of property; the poſſeſſion of freedom, which leaves nothing to be determined by the arbitrary will of a ſuperior; the extenſion of commerce, and the magnitude

of the national revenues, have rendered the laws ſo numerous and ſo intricate, to fill the tribunals with Judges to whoſe talents and integrity we might ſafely commit our fortunes, our characters, and our lives? Theirs is an office for which young men are little adapted. Young men would prove deficient in the requiſites of knowledge and practical wiſdom; and would ſeldom be found endowed with that ſobriety of judgement, and that degree of patience, which are eſſential to the proper diſcharge of ſo important a truſt. Yet were it not for the practice of the Bar, where could the future Judge employ his leſs ſteady years in gaining theſe indiſpenſable qualifications? Or, were we to ſuppoſe them at length attainable by private and perſevering application to the ſtudy of written authorities; and a ſeat on the Bench to be far more profitable and even more honourable than it is at preſent; what candidate, amidſt the many objects of more ready acquiſition continually offering themſelves to his eye, would fix his views on this diſtant prize, not to be reached but by a ſlow and laborious journey of many years; or, after ſelecting it, would have conſtancy of mind both

to perſevere in the purſuit, and to render himſelf deſerving of final ſucceſs? Or what young man of limited finances, and it is from perſons of that deſcription that the greateſt and moſt meritorious exertions are naturally to be expected, would think it conſiſtent with common prudence to riſk his time and fortune in a toilſome, protracted, and precarious enterpriſe; while conſcious that he might find himſelf in the end diſappointed in his moſt flattering proſpects, and overwhelmed by penury and diſtreſs?

Whenever we look on the profeſſion of the Law as the ſource from which the ſupreme judicial magiſtrates are to be derived, we diſcover in that conſideration a powerful additional reaſon for ſolicitude, that it may not be ſuffered to fall into ſuch hands as might lower it in the national opinion. That ſolicitude will be increaſed by the recollection of another very important benefit, which accrues to the community from the members of that inſtitution; a benefit which will be fitly noticed in this place, as it has an immediate reference to the purity and general character of the Judges.

Barriſters diſtinguiſhed for abilities, for profeſſional knowledge and experience, and for uniform reſpectability of conduct, may be regarded as watchmen appointed to ſuperintend the Judges, and judicial proceedings in our courts. The ſervice which they render to their country in this capacity is not always the object of their thoughts; but it is not on that account the leſs real, or the leſs valuable. The life of the Soldier is equally preſerved by the breaſtplate which unconſciouſly repels the thruſt of the enemy, as by the comrade who ſprings forward to avert it. The reſiſtance of the Counſel to improper conduct on the Bench, will commonly be excited by zeal for the intereſts of his Client; but there may alſo be times when it will be originally rouſed and continually augmented by genuine principles of patriotiſm. We are not however to meaſure the utility of Barriſters in this particular line of duty, merely by the inſtances of miſconduct which they actually detect, and of abuſes which they actually reform. We are to bear in mind the innumerable openings which the vaſt and intricate ſyſtem of the laws muſt afford to miſconduct and abuſes. And if a Judge

Judge is rarely hurried into them by inadvertence, or ſeduced by ſiniſter views; let it be conſidered how much his caution muſt be increaſed, and his integrity confirmed, by the conſciouſneſs that he is acting in the preſence of men ſcrupulouſly obſervant of every ſtep which he takes; bound by intereſt as well as duty to expoſe his errors; and perhaps not inferior to himſelf in profeſſional attainments and public eſtimation.

The Barriſter to whom a ſeat on the Bench is offered, cannot conſcientiouſly accept it, if he knows himſelf to be incompetent to diſcharge its duties, through a deficiency of health, of talents, or of knowledge; or if he is convinced, that through ſome peculiarities in the ſituation of himſelf and his family, he ought to decline it; or that in conſequence of excluding a more deſerving competitor, he ſhould contribute leſs to the ſtock of general good by undertaking than by refuſing ſo important a poſt. If ſuch be his deliberate opinion, let him liſten not to the allurements of ambition, but to the ſober dictates of virtue.

Our immediate concern however is with the actual Judge (*k*).

We may in the first place consider the duties of a Judge immediately relative to a trial and its consequences; and afterwards advert to some detached particulars which may most commodiously be reduced under the head of general conduct.

In treating of moral qualifications essential to a Judge, many words need not be employed on that which is of all the most important, incorruptible integrity. It is a part of his character so evidently indispensable, whether it be his object to discharge the various duties of his office with advantage to the public, or to preserve himself from the blackest criminality, and from indelible disgrace, that it is scarcely necessary to be enforced. The

(*k*) The remainder of this chapter will be employed in treating of the moral obligations incumbent on the Twelve Judges, as they are usually denominated. But many of the subsequent observations, if applicable to the Judges, will be no less applicable to the duties of the Lord Chancellor, and of others who act in a judicial capacity.

mind of man naturally recoils from the extremes of guilt and infamy. The temptation too is in the preſent inſtance nearly or altogether removed by the liberal emoluments and permanent ſituation of the Judges; and by the wiſdom of the judicial ſyſtem in this country, which, as far as human precautions can avail, ſeems to preclude the poſſibility of undetected corruption.

Patient and uniform attention during the progreſs of a trial ſhould mark the conduct of an upright Judge. His duty is to imprint on his memory every leading fact and important circumſtance on either ſide of the queſtion; to liſten without bias to the contending Counſel; and impartially to examine the adverſe witneſſes. He will not attempt to ſhew his ſagacity by oſtentatiouſly anticipating what he might ſhortly have heard from the Bar; nor gratify his vanity, or indulge his wearineſs, by needleſsly interrupting the pleaders and evidences, and preventing pertinent interrogations and replies. He will expreſs a marked diſapprobation of all forms and proceedings adopted for the purpoſe of adding to the charge, or

protracting the duration of the conteſt; and on previous application will repreſs them by ſuitable cenſures, by ſtriking irrelevant parts out of indictments, and by all other means in his power. While he unites in his own demeanour affable condeſcenſion with ſober dignity; he will check in the Advocates all unbecoming artifices, all brow-beating, all attempts to confound and embaraſs the witneſſes, all intemperate heat, all perſonal aſperity, and more eſpecially every approach to virulence and ſlander: and will not be led by miſtaken delicacy towards the Counſel, to content himſelf with liſtening with ſilent diſlike; but will ſtand forward with active and pointed interpoſition to check any part of their behaviour which deſerves reprehenſion. He will ſhew by his fairneſs and candour that he has not imbibed any of the prejudices which may be prevalent in the country reſpecting the cauſe or the parties at iſſue. If he perceives the priſoner in a criminal cauſe, or one of the parties in a civil ſuit, to be oppreſſed by combination, power, or ſtratagem, or likely to be overcome by the ſuperiority of talents arrayed againſt him; the Judge will regard himſelf

as called upon to aſſiſt, as far as equity will permit, the weaker ſide; and ſo to level the ground, that truth and juſtice (*l*) may not be obſtructed in their courſe. He will impreſs on all parties the ſacred nature of oaths, and cauſe them to be adminiſtered with ſlowneſs and ſolemnity. He will chaſtiſe by ſpeedy and exemplary puniſhment the prevaricating and the perjured witneſs. He will not ſuffer the fraudulent Attorney detected in his machinations to eſcape unpuniſhed; nor permit him to involve himſelf and others in future villanies by continuing (*m*) the exerciſe of

(*l*) "The Judge ſhall be counſel for the priſoner; "that is, ſhall ſee that the proceedings againſt him are "legal and ſtrictly regular." Blackſtone, iv. 355. This rule the learned Judge terms "a noble declaration of "law."

(*m*) The examination of Attornies by the Judges previouſly to their being admitted to practice is now become a mere form. The deputies, to whom that buſineſs is neceſſarily conſigned, are too apt to admit indiſcriminately all who apply. It would be well if means were deviſed of inſtituting a ſerious enquiry not only as to knowledge, but alſo as to moral character. A proper ſtep has been taken of late, in requiring the names and places of abode of all who deſire to be admitted to practice to be hung up in public during a whole term.

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his profeſſion, in his own name, nor (if it be poſſible to prevent the fraud) under cover of a colluſive partnerſhip with ſome unprincipled aſſociate. In every caſe which admits of being concluded by arbitration, he will earneſtly recommend that leſs irritating mode of deciſion; and will never paſs by an opportunity of preventing or terminating animoſities, diſſenſions, and quarrels, and leading the angry diſputants by mutual conceſſions to ſincere and durable reconciliation. He will reverence the inſtitution of Juries as the ſafeguard of Engliſh liberty; and will never ſeek to encroach on their legal power, nor endeavour, by reſorting to fictitious or refined diſtinctions between the fact and the law, to withdraw any part of the queſtion from their juriſdiction into his own. In addreſſing himſelf to the Jurors, he will avoid the inſincerity of ſtudied compliment, and the parade of eloquence and learning. He will ſtudiouſly accommodate himſelf to the level of their apprehenſion. He will ſtate to them the ſum of the evidence on each ſide of the queſtion in perſpicuous order, and with perfect impartiality; recapitulating, ſelecting, and

and collating the material points, and carefully remarking the circumſtances which tend to confirm or to impair the credit of ſuſpicious witneſſes. In aſſiſting the Jury with his profeſſional knowledge he will obſerve the inſtructions of Lord Chancellor (*n*) Bacon: "Judges "ought to remember that their office is *jus* "*dicere*, and not *jus dare*; to interpret law "and not to make law, or give law. Elſe "will it be like the authority claimed by the "Church of Rome; which under pretence "of expoſition of Scripture doth not ſtick to "add and alter, and to pronounce that which "they do not find, and by ſhew of antiquity "to introduce novelty."

In the interpretation of all laws, and eſpecially of penal laws, a conſcientious Judge will avoid ſtrained inferences and forced conſtructions. He will not attempt to awaken the ſlumbering rigour, nor to revive the obſolete authority, of ſtatutes enacted in times of heat and turbulence, and ordaining unuſual

(*n*) In the beginning of his Eſſay on Judicature.

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and unneceſſary puniſhments. When the Law, truſting to the integrity and diſcretion of its officer, permits him to ſelect from ſeveral penalties that which he ſhall deem, in the peculiar circumſtances of the caſe under conſideration, moſt conducive to the public welfare; he will faithfully attend in the exerciſe of this power to the purpoſe for which it was committed to him; and ſhun the equally miſchievous extremes of rendering the adminiſtration of juſtice odious by immoderate ſeverity, and of encouraging guilt by injudicious lenity and forbearance. He "will not (*o*) reſpect the per-"ſon of the poor, nor honour the perſon "of the mighty." He will neither act with unfairneſs towards thoſe in an humble ſtation, nor be betrayed by pity (*p*) into groundleſs prejudices in their favour. And he will diſcard all improper deference to rank or fortune; and will rather teach thoſe in the upper

(*o*) Levit. xix. 15.

(*p*) Thus in another part of Scripture (Exod. xxiii. 3.) it is ſaid, "Thou ſhalt not countenance a poor man in "his cauſe;" that is, improperly, and out of blind compaſſion for his poverty. On the other hand, partiality towards the rich and powerful is condemned in a great variety of paſſages in holy writ.

classes of society to expect their crimes to be chastised with more than usual strictness, than to hope that the circumstances, which render the example of their guilt doubly pernicious, will operate in diminishing its punishment. Whatever be the nature of the case, or the situation of the convict, he will never suffer himself to be induced by fatigue, by pressure of business, or by the importunity of others, to pronounce a final decision, which has not been previously matured by sufficient deliberation. He will reflect on the importance of a just sentence, not only in its immediate effects on the person on whose property, freedom, or life it attaches, but likewise in its future and indefinable operation as a precedent. He will weigh the moral effects likely to result from it, whether they relate to the culprit, or to the community at large; and in every case, as far as is consistent with the general good, that predominant object to which the private advantage of the individual offender must unquestionably be postponed, he will adapt the nature of the penalty to the probable reformation of him who is to suffer it. He will not spontaneously resort to pecuniary fines in pu-

nifhing the rich and prodigal. He will not feek to correct the fhamelefs villain by expofing him on the pillory. He will not confign to the lafh the fturdy criminal, who, though he laughs at tranfient pain, might have been deterred at leaft from repeating his offence, and perhaps weaned from all inclination to repeat it, by the irkfomenefs of folitude and labour. He will not affix a chaftifement difproportioned to the tranfgreffion immediately before him, by way of wreaking vengeance on the prifoner for fome former act of mifconduct. On all occafions, and particularly on the folemn decifions of life and death, he will rejoice when mercy may be allowed to prevail againft juftice.

When he communicates in civil cafes, for the information of the Jury, his opinion refpecting the *quantum* of damages to be affigned, let him not overlook any confideration arifing either from the nature of the cafe, or from the fituation and circumftances of the parties concerned, which ought to have an influence on their mind, or on his own. In exercifing his

difcretionary power (*q*) of granting or refufing cofts, it is not fufficient that the Judge fhould conduct himfelf with perfect fairnefs. Let him guard againft a failing far more likely to be difplayed than want of integrity, the want of adequate deliberation. And let him fteadily withhold the neceffary certificate from perfons, who have evidently reforted to a court of law from the impulfe of malice; or who have ftudied to confound the party accufed by the irrelevancy and prolixity of the indictment; or by fummoning a fpecial jury, or by any other artifices and manœuvres, to load their opponents with expence, and to procraftinate the moment of decifion.

In paffing judgement on a convicted prifoner,

(*q*) In the cafe of trefpaffes, when the damages affeffed by the Jury are under forty fhillings, cofts are not allowed by law, unlefs the Judge certifies the action to have been wilful and malicious. In the cafe of affaults alfo, when the damages do not amount to forty fhillings, the Judge has a power of giving cofts. In Courts of Equity it is univerfally in the option of the Judge, whether cofts fhall be granted or not. The cofts of a Special Jury are not allowed, unlefs the Judge will certify that there was a proper caufe for fummoning one.

ſoner, and particularly on a priſoner convicted of a capital offence, an opportunity frequently preſents itſelf, of making a deep and ſalutary impreſſion on the mind both of the unhappy victim of the law, and of all who are witneſſes of his condemnation (*r*). A wiſe and conſcientious Judge will never neglect ſo favourable an occaſion of inculcating the enormity of vice, and the fatal conſequences to which it leads. He will point out to his hearers the ſeveral cauſes, when they are ſufficiently marked to admit of deſcription and application, which have conducted ſtep by ſtep the wretched object before them through the ſeveral ſhades and degrees of guilt to a tranſgreſſion unpardonable on earth. He will dwell with peculiar force on ſuch of thoſe cauſes as appear to him the moſt likely, either from the general principles of human nature, or from local circumſtances, to exert their contagious influ-

(*r*) Much offence has ſometimes been taken, and with reaſon, by conſiderate men, at the conduct of Judges, who, after pronouncing in Court the fatal ſentence of the law againſt unhappy criminals, have appeared in the evening among the thoughtleſs crowd at the ball-room. Aſſizes are indeed ſeaſons unfitly choſen for the diſplay of feſtivity and public amuſements.

ence on the perſons whom he addreſſes. And whatever be the crime which is the ſubject of his animadverſions, he will not content himſelf with conſidering it in a political light, and diſplaying its baneful effects on the happineſs of ſociety; but will direct the attention of his audience to thoſe views of the nature and conſequences of vice, which are revealed in the awful denunciations of the Goſpel. In caſes of acquittal, a judicious addreſs from the Judge to the priſoner may frequently guard the latter, if innocent, againſt thoſe indiſcretions, and thoſe connections, which might ultimately have led him into crimes; if guilty, againſt ſubjecting himſelf in future to the riſk of the puniſhment which he has now chanced to eſcape. It may alſo act as a ſalutary admonition on many among the audience.

Thoſe principles which have guided the conduct of the Judge during the trial of the priſoner, will regulate all ſubſequent proceedings reſpecting him. Whether he allows him a reſpite, as affording the means of better preparation for death, or poſſibly of clearing up ſome circumſtances which contributed to his

conviction; whether he grants him a reprieve; whether he recommends him as a proper object of royal mercy; he will form his determination on the solid grounds of equity and public good. A subordinate regard he will undoubtedly pay to the welfare of the individual, both as being one of the public, and as being the person who in the present moment has the most at stake. But he will feel the necessity of withstanding improper solicitations, however respectable the quarter may be from which they come: he will fortify himself against the effusions of indiscriminate compassion operating in the breast of others; and, difficult as the task may be, against the emotions of improvident sympathy in his own.

II. It remains to subjoin a few remarks on the general conduct of a Judge, which could not be conveniently interwoven among the preceding observations.

The repression of vice, the encouragement of virtue, the security of freedom, and the removal of impediments to the progress of na-

tional happineſs; theſe are objects which the Judge is bound to promote, as well by the faithful diſcharge of his judicial functions, as by the uniform tenor of his life. They are objects which will lie near his heart, if he is duly impreſſed with the recollection of that tribunal, before which he in common with all men is ſhortly to appear. It will therefore be his conſtant care that his private conduct ſhall not reflect diſgrace on his public character, and impair the efficacy of his official labours. While conſpicuous on the Bench as a chaſtiſer of the wicked, he will ſtrive to be eminent in private life as an example to the good. The venerable name of Hale, highly as it is reſpected at the Bar, is deſervedly no leſs dear to the friends of religion.

In his addreſſes to Grand Jurors and Magiſtrates he will act under the influence of the principles which have been ſtated. He will not flatter them with profeſſions of reſpect, which he does not feel: he will not fix their attention on trivial topics; nor weary it with vague and irrelevant declamation. He will be ſolicitous, that whatever remarks he ſhall

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direct to them may not only be suited to the occasion on which they are assembled, and the nature of the office which they are to execute; but may likewise have an immediate and plain reference to local objects, events, discussions, and concerns, as far as they properly fall within the limits of his jurisdiction, and appear entitled to his notice. He will endeavour to meet and dispel prevailing antipathies, whether political or religious; he will industriously exert himself in allaying animosities and heats; he will strongly inculcate, and from his heart, not from mere ideas of decorum, the encouragement of industry and good morals, and the discountenancing of idleness and vice, and of every receptacle in which men learn to be idle and vicious. He will strive to restrain gambling in all its various forms; licentious theatrical exhibitions; and all other amusements which have an obvious tendency to deprave the innocent and unsuspecting; nor will he be indifferent as to the continuance of cock-fighting, bull-baiting, and boxing, those unsubdued remains of popular barbarity. The fruit of his labours may not perhaps be very conspicuous at first; but

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let him not despair, nor be discouraged. Neither magistrates in their public capacity, nor country gentlemen in their private proceedings, will continue to disregard exhortations repeatedly pressed upon them in open court by a Judge, who commands their respect by his talents, and wins their esteem by his affability and virtues.

Next to the denial of redress, the delay of justice is the greatest hardship which an injured person can sustain. The multifarious and intricate forms according to which every legal process must be conducted, and the immense mass of business from all quarters of the kingdom incessantly crowding our superior tribunals, necessarily contribute to retard the conclusion of each individual suit. The Judge who should slumber on his station, who should impede by his own dilatory sloth the already encumbered course of the law, might justly be deemed an encourager of the crimes which he wilfully forbore to chastise; and a concurrent cause of the grievances which he would not be prevailed upon to remove.

It is the duty of a Judge carefully to abſtain from all attempts to draw buſineſs into the Court in which he is placed, either to gratify his pride by having a larger quantity of cauſes ſubmitted to his deciſion than is determined by other tribunals; or to increaſe his own fees, or the fees (*s*) of his officers. A multiplicity of ſuits, from whatever ſource they may ariſe, it ſhould be his object as much as poſſible to check; and he ſhould never be deterred from that line of conduct by an unwillingneſs to leſſen the emoluments of practitioners of the law.

There are few ways perhaps in which a Judge might employ his leiſure more to the advantage of the community, than in deviſing methods of ſimplifying the proceedings of

(*s*) In caſes when a Judge is allowed to ſell offices under him, he is open to the temptation of improperly increaſing the fees of the perſons who hold them; as the places would thus be more valuable in the event of a future ſale: and, for the oppoſite reaſon, of diſcountenancing parliamentary meaſures, which would have the effect of diminiſhing the emoluments in queſtion. In fact, the ſale of the offices ſhould be aboliſhed, and compenſation be made to the Judge in a proper way.

Courts of Law. It is probable that reforms might be adopted in all the Courts of this kingdom, which, without encroaching on thofe fundamental principles which intrinfic excellence and the experience of ages may render it unwife to infringe, would produce very falutary effects in expediting decifions, in curtailing expences, and in diminifhing the frequency and proftitution of oaths. Were plans of reform maturely digefted by an eminent Judge, and by him prefented to the Legiflature fanctioned with the approbation of his brethren; the Public, fatisfied that whatever originates from fuch a fource will never fail fufficiently to accord with the leading maxims of Britifh jurifprudence, would caft away the doubts and furmifes with which it would have beheld the projects of a private Member of Parliament, and would no longer be panic-ftruck by the bare name of Innovation. But if the difcharge of their cuftomary functions fhould preclude thofe who are placed on the Bench from employing themfelves in developing the means of remedying defects in the civil and criminal tribunals; it is at leaft in their power to countenance whatever is fairly entitled

entitled to ſupport, in the plans for remedying them which are ſuggeſted by others. And that Judge would ill deſerve his honourable poſt, who from unwillingneſs to part with ſome privilege or emolument, or to acquieſce, it may be, in ſome acceſſion to the rights of the Jury, ſhould reſiſt a propoſed alteration, when convinced that it would be conducive to the public good.

Few circumſtances contribute more effectually to ſtimulate the young Barriſter to exemplary conduct and active exertions; few circumſtances have a more cheering influence on the mind of the experienced Counſel, when engaged in preparing for the public eye hiſtorical or practical diſquiſitions on ſubjects of juriſprudence, than the applauſe of thoſe who have arrived at the ſummit of their profeſſion. The Judge who feels a due ſolicitude to bring forward latent abilities, and enlarge the boundaries of legal knowledge, will not neglect to encourage merit in every ſtage by public approbation; and, whenever an opportunity is afforded him, by a wiſe diſtribution of his patronage.

In trials in which the decision of the Court depends on the plurality of voices, it is the duty of each Judge to conduct himself on the same principles as he would have done had the final determination of the cause pertained exclusively to himself. While he shews the respect which is due to the Chief of the particular bench to which he belongs, let him not be influenced by selfish views, or by timidity and false shame, rather to surrender the exercise of his understanding than oppose the authority of his superior. If he is himself pre-eminent in rank, let him not harbour a wish for so disgraceful a mark of deference from those who are below him. And whatever be his situation in point of precedence, let him not be dismayed from stating with firmness what he conceives to be law, when called upon to deliver his sentiments either in a Court of Justice or before the House of Lords; although he should know that every one of his brethren entertains a diametrically opposite opinion.

If a Judge is bound steadily to hold the middle track between man and man; he is under

under an obligation no leſs ſolemn to ſteer an independent courſe between party and party. Let him not be blinded and biaſſed by miniſterial or anti-miniſterial attachments. Let not the turbid ſtream of politics pollute the fountain of juſtice. Let him not be betrayed into an unmerited and intemperate oppoſition to the Crown and its Executive Officers, when cauſes in which they are concerned come before him, by a deſire of gaining popularity and the reputation of diſintereſtedneſs and patriotiſm ; nor bear hard on the freedom and property of the ſubject, from a puſillanimous reluctance to reſiſt the inclinations of Government, an ambitious deſire for further elevation, or a mercenary wiſh to conciliate the favour of thoſe who diſtribute the preferment and the patronage of the State. That ſacrifice of juſtice to political conſiderations, and that ſubmiſſion to the will of the Crown, which marked the conduct of ſome of the Judges in the earlier periods of our hiſtory, would be more criminal at preſent even than they were formerly. The light which has been thrown in later times on the proper foundations of civil government, and the ex-

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tent of civil obedience, has taken away from modern Judges the plea of ignorance; and their entire deliverance from the control of the Crown has in a very great degree leſſened the allurements of temptation.

CHAP. X.

ON THE DUTIES OF JUSTICES OF THE PEACE AND MUNICIPAL MAGISTRATES.

FROM the confideration of the duties of Judges of the Supreme Courts of Law, we naturally proceed to enquire into the moral obligations incumbent on thofe fubordinate Magiftrates, who, as the various ramifications branching off from the great arteries convey the blood to cherifh and invigorate every portion of the human frame, diftribute the falutary ftreams of juftice through every part of the body politic.

Of thefe Magiftrates, Juftices of the Peace occupy the moft eminent ftation. Their functions therefore will properly be confidered in the firft place.

I. The points on which a perfon who propofes to act as a Juftice is primarily bound to

examine himſelf, are, his motives for undertaking the office, and his competency to diſcharge its duties. If his purpoſe originates from a deſire to promote the good of the community, and particularly of his own neighbourhood, by a vigorous, impartial, and temperate adminiſtration of the laws; by reſcuing, if the danger exiſts, a truſt ſo important from falling into improper hands; and by preventing the many evils and inconveniences which would ariſe from a large tract of country being deſtitute of the preſence of an upright and active Magiſtrate; and if with theſe laudable intentions he unites ſuch a ſhare of legal information, and ſuch a degree of ſteadineſs and ſelf-command, as will enable him in practice to carry them into effect, let him without doubt or ſcruple perſevere. But let him totally abandon his deſign, or ſuſpend the execution of it until he has reformed his heart and diſpoſitions, if he diſcovers that he is impelled by ſiniſter views of intereſt and emolument, by a wiſh to obtain power for the purpoſes of oppreſſion, or by a ſolicitude for perſonal preeminence and political weight in the circle of his connections; or if he is conſcious that

he is deficient in the requiſite knowledge, and has not both the induſtry to acquire it with ſufficient promptitude, and, when acquired, the patience to apply it with ſufficient deliberation.

The qualifications indiſpenſably neceſſary to a Juſtice of the Peace in the actual diſcharge of the duties of his office, are calm attention and unwearied diligence in inveſtigating the caſes brought before him, and perfect integrity in deciding them. Let him be aſſiduous in examining and ſifting the witneſſes on both ſides of the queſtion, and beware of aſſigning too great or too little weight to their teſtimony on grounds inconſiderately adopted; or through private regard or diſlike towards the perſons by whom it is delivered, or the culprit whom it affects. Let not the character of the latter be allowed to determine a charge, which ought to be determined by the evidence adduced. The general bad character of an individual is a valid reaſon for apprehending him for examination, on ſlighter preſumptions than would have been ſufficient in the caſe of a man of good repute, becauſe

it is in itſelf a very ſuſpicious circumſtance; and perhaps for puniſhing him, when fairly convicted, with ſomewhat more than common ſeverity, in caſes where the Magiſtrate is empowered to vary the degree of chaſtiſement as he ſhall think expedient. But it is by no means a valid reaſon, not even if he is known to have committed in former inſtances the very crime of which he is now accuſed, for convicting him on weaker proofs than would have been deemed ſatisfactory had his integrity been unſullied. The two points which the Magiſtrate is to inveſtigate are theſe: Whether the witneſſes ſpeak truth; and whether what they allege legally ſubſtantiates the charge. Now with reſpect to the former point, the witneſſes ſeem particularly liable in the caſe in queſtion to deviate from the accuracy of real fact; unintentionally, from ſeeing every thing through the medium of prejudice on account of the culprit's character; or intentionally, if they are maliciouſly diſpoſed towards him, from an expectation that whatever they affirm againſt ſuch a man will readily be credited. As to the latter point, the Magiſtrate is bound by the ſtatutes

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applicable to the occaſion, and by the received rules of evidence which ſtatutes do not define, univerſally to require thoſe proofs which the law and eſtabliſhed uſage render neceſſary to conviction. In every inſtance let him give ſentence not merely with upright intentions, but according to the ſtrict ſenſe of the exiſting law. This limitation is ſubjoined as a caution againſt that propenſity which is ſometimes diſcernible in Magiſtrates; and ariſes on ſome occaſions perhaps from careleſſneſs, and a deſire to avoid the trouble of conſulting books and collating ſtatutes, but frequently from benevolent views improperly indulged; to adjudge the cauſe before them partly or entirely by their own unauthoriſed ideas of equity. Let the Juſtice always remember, that his province is not to make or alter the laws of the land, but to pronounce what they have previouſly enacted; and that in no inſtance whatever is he to extend his diſcretion beyond the limits preſcribed to it by the Legiſlature. Within thoſe bounds let him accommodate his deciſion, as far as may be practicable, to the peculiar features and merits of the buſineſs at iſſue; and give to his benevo-

lence the largeſt poſſible ſcope which is conſiſtent with the public welfare.

Benevolence ought to be in fact ſo powerful a motive of his conduct, as to be ſubordinate only to ſtrict and impartial uprightneſs. If it was the cauſe of his entering upon his office, it will appear, unleſs his views and diſpoſitions ſhall have undergone a change much to be deplored, in the whole courſe of his practice as a Magiſtrate. It will manifeſt itſelf in various ſhapes and forms, ſuited to the ſeveral circumſtances in which he has opportunities of exerting it. It will diſſuade him, on the one hand, from preferring his perſonal eaſe to the intereſt and convenience of the parties who apply to him for redreſs; and from ſending them back on ſlender grounds until another day, or keeping them for a long time lingering at his door before he grants them a hearing. And on the other, it will prompt him, when he is fully occupied already, to make known his ſituation at once to any freſh applicants who may arrive, and not to ſuffer them to be detained in fruitleſs expectation. It will teach him uniform compoſure and mildneſs of manners; and incline him ſtudiouſly to practiſe every

degree of affability and condefcenfion which is confiftent with the due fupport of his authority. It will render him friendly to the perfon of the criminal, while fevere againft the crime; a diftinction which the accufed eafily perceive, and often remember with gratitude. It will make him tender towards vagrants, who are frequently treated with undifcriminating harfhnefs. It will difpofe him rather to prevent, than to punifh, breaches of the law; and on that principle will be the very motive which leads him not uncommonly to chaftife early tranfgreffors, and perfons convicted of fmall offences, with confiderable rigour, that he may deter them at once from the paths of guilt. It will reftrain him, while in all cafes, and efpecially in fuch as are flagrant, he is duly attentive to the refponfibility of the bail produced, from exacting in any cafe fecurities difproportioned to the circumftances of the party againft whom the complaint is made; from proceeding to a legal enquiry while reafonable hopes remain that the aggreffor might be induced, by the reiterated application of the perfon injured, to make fatisfaction; and from iffuing an expen-

five warrant, when a fixpenny summons will anfwer the purpofe. It will determine him in adopting meafures of prevention or of punifhment in the cafe of offences threatened or committed, to exercife thofe difcretionary powers, which in moft inftances are confided to him by the law, with lenity and moderation; and to be guided as to the kind and the degree of the reftraint or chaftifement which he felects, by a regard to the welfare of the offender himfelf, as far as it may be compatible with the good of the neighbourhood and of the community. And finally it will on all occafions fuggeft to him, that among the various ways in which his office enables him to promote the happinefs of mankind, he is then employed in a manner not only the moft fatisfactory to himfelf, but perhaps the moft ufeful to others, when he acts as a peace-maker; when he removes fecret animofities; puts an end to open quarrels; prevents embryo lawfuits by a reference to private (*a*) arbitration; and unites the jarring members

(*a*) Thefe expreffions are not to be underftood as in the flighteft degree exculpating a Magiftrate, who permits profecutions

members of the ſame family in an oblivion of paſt miſunderſtandings, and a renewal of concord and harmony.

A conſiderable ſhare of firmneſs of mind (and firmneſs of mind is by no means inconſiſtent with that active benevolence which has been inculcated) is abſolutely neceſſary to carry a Magiſtrate through the duties of his ſtation. It will be requiſite in order to enſure to him that ſteadineſs of demeanour, without which he will find it impoſſible to preſerve order and decorum in his juſtice-room; to reſtrain loquacity, petulance, impertinence, and rudeneſs; to curb the bold, and overawe the hardened. It will teach him to proceed with perſeverance in the path of rectitude, neither daunted by menaces, public or anonymous, nor by the proſpect of giving offence to the wealthy and powerful. But let him not forget that the fortitude which he is to cultivate is the offspring of religion; not the obſtinacy which originates from pride. Let

proſecutions to be compounded, when either the law of the land or the public good requires that the offence ſhould be openly puniſhed.

him not perſiſt in a wrong meaſure through ſhame of retracting, or through diſlike to the perſon who has pointed out the miſtake.

A Juſtice is under an eſpecial tie unremittingly to promote by all right and ſeaſonable means the influence of religion. From the various methods by which he may be enabled in the courſe of his official practice to diffuſe a ſenſe of piety, and an abhorrence of vice, two may be ſelected as deſerving of particular notice. The one is, by never failing to adminiſter oaths with deliberation and ſolemnity; nor to impreſs on the careleſs, the ignorant, and the profligate witneſs the extent of the obligation incurred, the heinous (*b*) guilt of perjury, and the futility of all attempts to eſcape that guilt by outward evaſive acts, or by concealed mental equivocations. The other, by calling the attention of the culprit

(*b*) In ſome parts of the country many of the common people who come before Magiſtrates as evidences, are found to make uſe of a very blamable latitude in their interpretation of the ninth commandment; and think that they are guilty of no breach of it in deviating, though upon oath, from ſtrict truth, *in favour* of the party accuſed.

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to theſe very material circumſtances; that his offence, be it what it may, is not merely a breach of the laws of the land, but a ſin againſt God; and that it is not rendered leſs criminal in the eyes of his heavenly Judge, by any defect of evidence, or any informality of proceedings, which may ſhelter it from the cognizance of a human Magiſtrate.

Every ſituation and employment in life influences, by a variety of moral cauſes, the views, manners, tempers, and diſpoſitions of thoſe who are placed in it. The Juſtice of the Peace can plead no exemption from this general rule. The nature of his authority, and the mode in which it is exerciſed, have an obvious tendency to produce ſome very undeſirable alterations in his character, by implanting new failings in it, or by aggravating others to which he may antecedently have been prone. His juriſdiction is extremely extenſive, and compriſes a multiplicity of perſons and caſes. The individuals who are brought before him are almoſt univerſally his inferiors; and commonly in the loweſt ranks of ſociety. The principal ſhare of his

buſineſs

busineſs is tranſacted in his own houſe, before few ſpectators, and thoſe in general indigent and illiterate. Hence he is liable to become dictatorial, brow-beating, conſequential, and ill-humoured; domineering in his inclinations, dogmatical in his opinions, and arbitrary in his deciſions. He knows, indeed, that moſt of his deciſions may be ſubjected to reviſal at the ſeſſions: but he may eaſily learn to flatter himſelf that he ſhall meet with no ſevere cenſure from his friends and brethren on the Bench, for what they will probably conſider as an overſight, or at the moſt as an error eaſily remedied, and therefore of little importance. He knows too that he may be called to account before the Court of King's Bench: but he is alſo aware that great tenderneſs is properly ſhewn by Courts of Law to the conduct (*c*) of a Juſtice, unleſs a culpable intention

(*c*) "The country is greatly obliged to any worthy "Magiſtrate, that without ſiniſter views of his own will "engage in this troubleſome ſervice. And therefore if "a well-meaning Juſtice makes any undeſigned ſlip in his "practice, great lenity and indulgence are ſhewn to him "in the Courts of law; and there are many ſtatutes "made to protect him in the upright diſcharge of his "office,

intention on his part is clearly proved; and that the objects whom he may be tempted to aggrieve are ufually too humble, ignorant, and timid, to think of feeking redrefs except in very palpable and flagrant cafes, and frequently too poor to be able to undertake the tafk of feeking it in any. In confequence moreover of being perpetually converfant in his official capacity with the moft worthlefs members of the community; deftined as it were to regifter every crime perpetrated within many miles of his habitation; and witneffing petty acts of violence, knavery, and fraud committed by men who had previoufly maintained a tolerably good character in their neighbourhood; he may readily acquire the habit of beholding all mankind with a fufpicious eye; of cherifhing fentiments of ge-

" office, which, among other privileges, prohibit fuch " Juftices from being fued for any overfights without " notice beforehand; and ftop all fuits begun, on tender " made of fufficient amends. But, on the other hand, " any malicious or tyrannical abufe of their office is " ufually feverely punifhed; and all perfons, who receive " a verdict againft a Juftice for any wilful or malicious " injury, are entitled to double cofts." Blackftone, vol. i. p. 354.

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neral diſtruſt; and of looking with leſs and leſs concern on the diſtreſſes of the common people, from a vague and inconſiderate perſuaſion that they ſeldom ſuffer more than they deſerve. Againſt theſe ſnares and temptations which beſet him on every ſide, and will infallibly circumvent him in a greater or a leſs degree, if he reſts in heedleſs inattention, or in falſe ideas of ſecurity, let him guard with unremitting vigilance. If they are ſuffered to undermine thoſe better reſolutions, and ſupplant thoſe better purpoſes, with which he entered upon his office; let him not think that he ſhall eſcape from the circle of their influence, when he quits the limits of his juſtice-room. They will follow him into every ſcene of private and domeſtic life. The habits of the Magiſtrate will infect the conduct of the huſband, the father, the friend, the country gentleman; they will render him arrogant and overbearing, ſour and moroſe, impatient of contradiction, obſtinate in his deſigns and undertakings, gloomy, ſuſpicious and unfeeling, uncomfortable to all around him, and more uncomfortable to himſelf.

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It is not however ſufficient that the Juſtice of the Peace diſcharges with fidelity thoſe official duties which reſt immediately and exclusively on himſelf; and ſtrives to preſerve his manners, temper, and diſpoſitions, from being injured by the trials to which they are expoſed. He is under a no leſs ſacred obligation to ſuperintend the conduct of his ſubordinate aſſiſtants, and particularly of his clerks. When the Magiſtrate himſelf is but imperfectly acquainted with the laws which he profeſſes to adminiſter, he frequently degenerates into a paſſive and miſchievous inſtrument in the hands of a rapacious Attorney; or of ſome diſcarded underling of the law, with whoſe aſſiſtance he cannot diſpenſe, and at whoſe enormities he is conſequently led to connive. Reprehenſible as a Juſtice of this deſcription muſt unqueſtionably be pronounced, his conduct is innocence itſelf compared with that of the man, if ſuch (*d*) a character now

(*d*) That ſuch characters were lately in exiſtence within the precincts of the metropolis cannot be doubted. But it is to be hoped that the Police Bill paſſed in the laſt Seſſion of Parliament will deliver the City of Weſtminſter from thoſe perverters of juſtice, who combined with their clerks

now remains in exiſtence, who makes it his object to create buſineſs for his own emolument; turns the exerciſe of his authority into an iniquitous traffic; and prompts, encourages and ſhares the extortions and ſcan-

clerks in joint ſchemes of plunder and peculation; received bribes for connivance from the keepers of diſorderly houſes; and ſuffered the young offender to proceed unmoleſted in the career of villany, until encouraged by impunity he committed a crime of ſuch a nature as to ſecure to the Thief-taker, and of courſe to the Magiſtrate his partner, a handſome reward on conviction. From theſe imputations Juſtices of the Peace reſident in the country are, I believe, in a great meaſure free. A celebrated modern poet indeed intimates that they are ſometimes acceſſible to baits of another kind.

——— ———Examine well
His milk-white hand; the palm is hardly clean;
But here and there an ugly ſmutch appears.
Foh! 'twas a bribe that left it; he has touch'd
Corruption. Whoſo ſeeks an audit here
Propitious, *pays his tribute, game, or fiſh,*
Wild fowl, or veniſon, and his errand ſpeeds.

Cowper's Task, book iv.

This account, I would hope, is one of thoſe poetical fictions, with which the votaries of the muſes delight to embelliſh their performances. But if the practices here deſcribed actually take place, the Magiſtrate who is a party to them in a ſingle inſtance ought to be branded with public infamy, and degraded from his office.

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dalous profits of his agents. But the moſt intelligent and conſcientious Magiſtrate, if he relies with implicit confidence on the good conduct of his clerks, and neglects to keep a watchful eye on them, muſt be more than commonly fortunate in his choice, if they do not gradually fall into the practice of exacting higher fees than they have a right to (*e*) demand, and of taking premiums for ſuppoſed good offices; as for promiſing to procure begging paſſes for vagrants, or the next hearing on a buſy day for a particular party, or to ſpeak to their ſuperior in favour of a perſon and his cauſe; or at leaſt of making improper advantages of their ſituation, and rendering the attainment of redreſs expenſive to the poor, by availing themſelves of legal forms, and artful ſubdiviſions of juſticiary proceedings, needleſsly to augment the number of their perquiſites. Of this laſt manœuvre an example frequently occurs in the caſe of recognizances; where, if five perſons charged

(*e*) This practice might eaſily be prevented, were care taken to have a printed copy of the fees allowed to be received hung up, according to Act of Parliament, in a conſpicuous part of the office.

as aſſociates in the ſame offence, are to be bound, the clerk, inſtead of including all of them in the ſame recognizance, binds each of them ſeparately, and thus carves out for himſelf five fees inſtead of one *(f)*. Similar tricks are practiſed in the caſe of informations. On the ſubject of fees it may be added, that the Magiſtrate himſelf may on many occaſions ſhew a very laudable ſpirit of liberality, by remitting or purpoſely contriving to leſſen his own, where the party aggrieved labours under extraordinary circumſtances of hardſhip or diſtreſs. To abſtain in general from receiving the common fees of office, (a cuſtom which benevolent Magiſtrates have ſometimes been deſirous of adopting, with a view to render juſtice attainable with perfect facility and without charge) would not apparently

(f) In ſome places the Magiſtrates have judiciouſly adopted the plan of giving to every perſon, when he enters into a recognizance, a printed minute properly filled up, ſtating the day when he is to appear, and the cauſe of that promiſed appearance. A trifling fee is taken for the minute. This plan has proved highly beneficial in preventing inſtances of diſtreſs and hardſhip ſimilar to thoſe which frequently took place before, in conſequence of the individuals who were bound forgetting or neglecting to attend at the appointed time.

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be attended with effects beneficial on the whole. The immediate consequence would be an immoderate increase of business to the Magistrate himself; and, what would be still worse, an increase no less immoderate of squabbles and contentions among the poor, who would carry every frivolous dispute, every angry word, to the nearest tribunal, with equal loss of temper and of time; if they knew beforehand that their complaints and invectives might be poured forth, and their resentment eventually gratified, without the payment of a farthing. He who is disinterested enough not to wish to accept even that small compensation for his trouble in administering the laws, or rather that exemption from paying a salary out of his own pocket to his clerk, which the ordinary fees afford, will be likely to appropriate what is saved by receiving them to some charitable and useful purpose; and thus render a much greater service to the Public than he would have done by declining to receive them.

The administration of criminal justice ought to be exempt from the operation of any

bias and influence whatever. It ought not only to be pure, but to be far removed from all ſuſpicion. It ought to hold out no proſpects of advantage to Magiſtrates, nor to thoſe who ſtand in a near relation to Magiſtrates. Hence appears the propriety with which Magiſtrates themſelves are prohibited to act as Solicitors or as Counſel in carrying on proſecutions. And hence alſo appears the blame due to the Magiſtrate who recommends his own clerk to be employed in carrying them on, even though the recommendation ſhould not be urged, as it ſometimes has been urged, in a manner ſcarcely to be reſiſted *(g)*.

It remains to illuſtrate and exemplify ſome of the preceding general obſervations, by making a few remarks on the leading branches of buſineſs which fall within the juriſdiction of a Juſtice of the Peace.

One of the moſt important and laborious functions of the Magiſtrate is the adminiſtration

(g) A merited and public cenſure has lately (1797) been paſſed on practices of this nature by the higheſt authority in the Court of King's Bench.

tion of the laws refpecting the poor. To him it belongs to decide all queftions concerning the parochial relief to be affigned to thofe who are unable to maintain themfelves and their families. He will have learnt from experience, on the one hand, that parifh-officers are very apt to be penurious and hard-hearted; and on the other, that the poor are fometimes guilty of infolent rudenefs and impofition, and unwilling to exert themfelves for their fubfiftence to the utmoft of their ability. The avarice and cruelty of the former, and the impertinence, idlenefs, and extravagance of the latter, he will fteadily reprefs. His folicitude however will not be confined to the difcovery of the proper *quantum* of relief: he will be equally anxious to afcertain the beft and kindeft mode of imparting it; and will ftudy to fecure the obfervance of that mode by pofitive injunctions, when he is authorifed to give them; when not, by his earneft recommendation. In cafes in which the law entrufts him with difcretionary power, he will not on flight grounds oblige a poor man to relinquifh his cottage, with all his little domeftic property and comforts, and take up his abode in a

work-houſe; much leſs to be tranſported to the work-houſe of ſome diſtant place, which farms the poor of twenty villages, there to pine among ſtrangers. On the conduct of work-houſes in general, thoſe receptacles of the old and the infirm, of widows and orphans; which, though capable under proper management of anſwering many excellent ends, too often become ſcenes of miſery to the aged, and nurſeries of vice to the young; he will exerciſe a ſalutary control; and will viſit as often as may be expedient ſuch as are near to him. And while he enforces the wiſe and frequently neglected laws which enact that all perſons in the houſe, who are able to labour, ſhall be furniſhed with tools and implements, and be conſtantly employed; he will exhort, and if it be neceſſary he will conſtrain, the maſter to treat all under his care with humanity, and to furniſh all with a ſufficient quantity of clothing, bedding, and wholeſome food. In the appointment of parochial officers, in the adjudication of caſes (*b*) of ſettlement, and

(*b*) Many unneceſſary hardſhips have heretofore been brought upon induſtrious labourers and artiſans reſident

and in all ſimilar tranſactions in which his popularity, his property, or his convenience may be directly or indirectly intereſted, let him beware of being partial and ſelfiſh. In placing out pariſh apprentices, let him not, through fear of giving offence to the principal inhabitants by refuſing to ratify their bargain, conſign the friendleſs child to an unfeeling

dent at a diſtance from their own places of ſettlement, by the pariſh-officers compelling them to remove thither, ſometimes from a private grudge, at other times from an unreaſonable or groundleſs dread of their afterwards becoming chargeable. Theſe evils, which the Magiſtrate was ſcarcely perhaps able to prevent, as the law appeared to deny him, in the caſes of which we ſpeak, that diſcretion with which in moſt others of a ſimilar nature he was inveſted, were remedied by a recent Act of Parliament with reſpect to all perſons who are regular members of friendly ſocieties; and by a ſubſequent Act have been remedied with reſpect to poor perſons in general, who are not actually chargeable, and conform to certain preſcribed regulations. If there ſhould chance to be any individual precluded by unforeſeen circumſtances from availing himſelf of the benefit of the Act, it is the duty of the Magiſtrate, inſtead of indiſcriminately acting on the application of the officer in a miniſterial capacity, to examine into the probability of the man's becoming chargeable to the pariſh where he reſides; and to refuſe to authoriſe the removal in thoſe inſtances wherein he deems it unneceſſary and vexatious, unleſs clearly obliged by the law.

and profligate mafter; nor doom him to a trade which will manifeftly be ruinous to his health (*i*).

Among the contefts which will be brought before him inftances of difputes between mafters and their apprentices or fervants will not unfrequently occur. In determining them, let him adminifter impartial juftice; and in imitation of that Judge to whom he is refponfible, be "no refpecter of perfons." Let him not favour the fubftantial tradefman againft the indigent youth placed under his control; nor hefitate to refcue the latter from his thraldom, if his mafter treats him with unmerited rigour, withholds from him the requifite inftruction,

(*i*) In the cafe of fome particular trades and manufactures, which under common management prove injurious to the health and morals of the perfons employed in them, Juftices of the Peace may fometimes do great fervice to the community by ftrongly recommending the adoption of proper rules and precautions, even when the law does not give them the power of enforcing it. The Magiftrates for the county of Lancafter affembled at the Michaelmas Seffions, 1784, fet a very laudable example of this kind of exertion refpecting cotton-mills. See a pamphlet entitled "Thoughts on the Means of preferving the Health of the Poor," by the Rev. Sir William Clerke, Bart. London, 1790.

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or exhibits in his conduct a dangerous example of vice. Let him be equally on his guard against being imperceptibly biassed to countenance the wealthy farmer in opposition to his labourers and dependents, at the expence of truth and equity.

The preservation of the public peace falls within the peculiar province of the Justice. On all occasions of tumults and riots, whether actually commenced, or apprehended on probable grounds, let him spare no personal trouble, nor shrink from any personal interference, which may appear likely and necessary to prevent or to quell them. Let him exert himself with impartial diligence and zeal to secure every description of his countrymen from outrage; and if those who are menaced or aggrieved belong to an unpopular party or an obnoxious sect, instead of suffering the illiberal and bigoted prejudices of the neighbourhood to deter him from doing his duty, let him consider them as additional reasons for being strenuous, vigilant, and intrepid in discharging it. Let him always adapt his measures, whether of precaution or of resistance, to the probable emergency

emergency of the cafe. Let him be folicitous to put an end to difturbances by the ufe of thofe means alone which are commonly employed by the civil power. Let him be tender of calling in the affiftance of the foldiery, and ftill more tender of commiffioning them to fhed blood. But when all other refources have been exhaufted, and the danger continues preffing; let him not hefitate to maintain the laws of his country, and to protect the perfons and property of his fellow fubjects, by a cautious application of military force.

It is the duty of a Juftice to keep a vigilant eye over the conduct of gaols; and by an active ufe of the power which the law entrufts to Magiftrates with refpect to framing rules for their internal adminiftration; and the employment of the perfons confined, and alfo by occafional vifits for the purpofe of infpection, to endeavour to enfure proper behaviour on the part both of the gaoler and of the prifoners. The internal proceedings of licenfed mad-houfes are likewife in a confiderable degree fubjected to his control, by means of the power which he poffeffes of directing able phyficians

phyſicians to examine them; and the truſt is not to be neglected.

Another branch of juriſdiction committed to Juſtices of the Peace is the ſuperintendence of public-houſes. By an improper exerciſe of authority in granting licenſes, a Magiſtrate may do an eſſential injury to the welfare and morals of the whole community. The principal danger to be feared is from his being miſled, by a blind unwillingneſs to diminiſh the revenues of the State, by ill-timed tenderneſs for the Publican or his family, by the ſolicitations of intereſted individuals, and even of his own clerks (who, if not bribed to intercede for a licenſe, are entitled to a fee on its being granted), and occaſionally perhaps by a ſecret deſire of ſerving ſome favourite or dependent of his own, to permit the exiſtence of too many public-houſes; and where the number is moderate, to connive at their being in the hands of improper owners. The evils reſulting from a needleſs abundance of theſe ſhops for intemperance and vice (for ſuch they very generally prove, and particularly when they are in the poſſeſſion of ſelfiſh and unprincipled

unprincipled landlords) are beyond deſcription. The lower the rank of the houſe, and the more obſcure its ſituation is, the greater are the miſchiefs which may be expected from it. In theſe receptacles of the drunken and the diſſolute, every kind and degree of profligacy is learnt; the young and the idle are initiated in ſottiſhneſs, gaming, profaneneſs and debauchery; and confirmed and encouraged by habit and example. Schemes of rapine are projected and planned, from the pilfering of an adjoining hovel, and the petty plunder of an unguarded hen-rooſt, to highway robbery and midnight murder. Hence private diſtreſs and public inſecurity; hence the multitude of our poor, and the fulneſs of our priſons. Let the Magiſtrate without delay withdraw his licenſe from all public-houſes conducted in a diſorderly manner, or not required by general convenience. Let him reſolutely refuſe to admit the ſetting up of a new one, unleſs a permanent and large acceſſion of inhabitants or of travellers has manifeſtly rendered additional accommodations neceſſary. Let him exact every teſtimonial which the law empowers him to demand, of the fitneſs of the perſons who are

to

to keep ale-houſes, and every legal ſecurity for the continuance of their good behaviour; and let him beware of truſting to the recommendation of pariſh-officers and other inhabitants of the place, who frequently ſtrive to obtain a licenſe for the moſt indigent and worthleſs characters, to ſave the village from the charge of maintaining them as paupers. If he finds himſelf deceived, let him ſubſtitute others as ſpeedily as may be in the place of thoſe whom he had appointed, by whatever importunities he may be urged to the contrary. But never let him uſe his authority to with-hold or take away licenſes, as an inſtrument of oppreſſion; to gratify the prejudices of his friends; or to wreak his vengeance on an unfortunate individual, who has offended him at an election, or in ſome private tranſaction has incurred his reſentment.

In the expenditute of county rates, or other public money, on the conſtruction or repair of gaols, bridges, roads, and ſimilar works, let him in each caſe faithfully and œconomically apply the ſum to its proper object; and in fixing on the perſons to execute the plan,

never let him ſeek to puſh forward a favourite workman or ſuperintendent, to the detriment of the public. In the nomination of overſeers of highways; in preſenting roads out of repair; in deciding on indictments; in directing which roads ſhall be repaired firſt; in raiſing aſſeſſments on pariſhes for the purpoſe; in exercising the power of puniſhing or diſmiſſing ſurveyors for neglect of duty; let him impartially attend to the general benefit of the country.

In the trial of offences againſt the Exciſe Laws, the Game Laws, and in a vaſt variety of other inſtances, the Magiſtrate is inveſted with a power of ſummary conviction. It is the duty of the Legiſlature to confer this ſuſpicious and eaſily abuſed (*k*) prerogative with great caution; it

(*k*) Sir William Blackſtone, ſpeaking of the inſtitution of ſummary proceedings, obſerves, that it was "deſigned "profeſſedly for the greater eaſe of the ſubject, by doing "him ſpeedy juſtice; and by not haraſſing the freeholders "with frequent and troubleſome attendances to try every "minute offence. But it has of late been ſo far extended "as, if a check be not timely given, to threaten the diſuſe "of our admirable and truly Engliſh trial by Jury, unleſs only

it is the duty of the Magiſtrate to exerciſe it, when conferred, in the moſt diſintereſted and conſcientious manner. Let him not ſeek to conciliate the favour of Government, by diſtinguiſhing himſelf for unrelenting rigour in the chaſtiſement of defrauders of the revenue. Let him not ſtrain the words of an Act of Parliament to a meaning not intended by thoſe who enacted it, in order to facilitate the conviction or add to the puniſhment of the

" only in capital caſes." Vol. iv. p. 280. After ſtating in ſtrong terms the dangers which might ariſe to public liberty from entruſting to Commiſſioners of Exciſe, Juſtices of the Peace, and other officers appointed and removeable at pleaſure by the Crown, ſuch formidable power over the property of the ſubject; he particularly enumerates the inconveniences and evils which, in his opinion, have reſulted from Juſtices being now authorized to proceed ſummarily in a multitude of caſes formerly tried by a Jury in the Court Leet. And his concluſion is, that "from theſe "ill conſequences we may collect the prudent foreſight of "our ancient law-givers, who ſuffered neither the property "nor the puniſhment of the ſubject to be determined by "the opinion of any one or two men; and we may alſo "obſerve the neceſſity of not deviating any farther from "our ancient Conſtitution, by ordaining new penalties to "be inflicted upon ſummary convictions." P. 282.—See alſo further remarks on the ſame ſubject, Blackſtone, vol. iv. p. 350.

poacher;

poacher; an offender whom Country Gentlemen are diſpoſed to regard with ſingular abhorrence. Nor ever let him be biaſſed, in his conſtruction of the terms of a ſtatute, to that interpretation which conveys the (*l*) greater ſhare of power to himſelf. Such conduct would be no leſs criminal in him than it would be to excite an oppoſition, or to concur in petitioning againſt a Bill pending in Parliament, on account of its leſſening in ſome particular caſes the authority which he now poſſeſſes; or not granting to him an additional portion adequate to the extent of his deſires.

The Juſtice of the Peace is conſtituted a guardian in many reſpects of public morality;

(*l*) An inſtance of a ſtrong deſire on the part of Magiſtrates to graſp at excluſive and exorbitant juriſdiction is recorded and ſtigmatiſed by Sir William Blackſtone. Treating of ſummary convictions, he obſerves (vol. iv. p. 283), that "Courts of Common Law have thrown in one check "upon them, by making it neceſſary to *ſummon* the party "accuſed before he is condemned. This is now held to "be an indiſpenſable requiſite; though the Juſtices long "ſtruggled the point, forgetting that rule of natural rea"ſon expreſſed by Seneca,

"Qui ſtatuit aliquid, parte inauditâ alterâ,
"Æquum licet ſtatuerit, haud æquus fuit."

and

and is invefted with a general power of enforcing the laws againft profanenefs, the breach of the fabbath, and other offences of the fame nature, wherever he witneffes or is properly apprized of their being tranfgreffed. The confidence which the Legiflature has evinced, in committing to him this extenfive authority, fhould ftimulate him not to neglect the truft. But let him not hope effectually to reform the morals of thofe whom he corrects, if he exhibits in his own conduct an example of irreligion and vice. Profane language from the mouth of a Magiftrate is fo flagrant an outrage againft the laws of God and man, and fo grofs a violation of common decency, that it is fcarcely poffible to cenfure it with adequate feverity.

The conduct of Conftables and other inferior Officers of the Police is fubject to the infpection of the Juftice under whofe direction they act; and he is authorized to take fit meafures for their punifhment, if they neglect their duty. If they difobey the orders which they have received, or difregard thofe obligations which the nature of their refpective functions impofes on them; if they turn

loose on the public, vagrants whom they have been enjoined to forward to their places of settlement; if they omit to take proper precautions when they have reason to apprehend disturbances and riots, or strenuously to exert themselves when tumults actually arise; if they wilfully permit the escape of persons accused, or connive at the impositions of traders who make use of fraudulent weights and measures; on these and all other similar occasions the Magistrate himself becomes an accomplice in the crime, and an abettor of the injury which the public may receive from future repetitions of it, if he forbears to chastise the guilty.

In some instances the concurrence of two Justices is necessary to give validity to the measures which are to be carried into execution. Hence Magistrates frequently institute the practice of meeting each other once in a week, or at other periodical intervals, at an appointed place, where cases of all kinds are brought before them from every part of the neighbourhood. They are thus enabled to transact a great quantity of business with the

ſmalleſt poſſible expenditure of time (*m*) to themſelves. A Magiſtrate is much to be blamed, where, to the manifeſt inconvenience not of himſelf merely, but of the country, he refuſes to adopt this mode of co-operating with one of his brethren from political or perſonal prejudice. And he is ſtill more reprehenſible if, after having adopted it, he is ſeduced by timidity or intereſted views to acquieſce in any improper conduct on the part of his co-adjutor (*n*). At

(*m*) A Magiſtrate may reap ſimilar advantages by having fixed hours for doing buſineſs at home. This practice alſo ſaves trouble, in many caſes, to thoſe who are obliged to attend him; and enables pariſh officers to receive at one time the deciſion of the Magiſtrate on many applications for relief, &c. each of which might otherwiſe have occaſioned them a ſeparate attendance.

(*n*) It may not be uſeleſs to ſubjoin by way of example the following "Plan of Arrangement for the Magiſtracy "of the Diviſion of Mancheſter in the County Palatine of "Lancaſter, agreed upon by the underſigned Magiſtrates, "January 21ſt, 1795," as it contains various beneficial proviſions in a very ſmall compaſs.

"I. A Plan of Rotation ſhall be fixed on the baſis "of certainty and mutual accommodation for all ſingle "and double attendances at the New Bayley Court-"Houſe, for viſiting the Gaol, and auditing the accounts "thereof; for the frequent inſpection of the Poor-

 "Houſes;

At the Court of Quarter Seſſions all the Juſtices of the Peace for the county aſſemble in a judicial character, and with very extenſive powers. A part of their buſineſs conſiſts in deciding on appeals from the ſentences of individual Magiſtrates. In reviewing thoſe ſentences, each Juſtice is bound in conſcience to act with impartial equity; and never to ſcreen a faulty determination of one of his brethren for

" Houſes; for the care and inſpection of the public " Bridges, and of the Bridgemaſters' accounts, and of the " Highways; for enquiring into the ſtate of the Public " Houſes, &c. &c.; ſo that for each of theſe various ſer- " vices, ſo divided, there may always be certainty of at- " tendance, and a fixed point of reſponſibility.

" II. None of the Magiſtrates ſhall receive, directly or " indirectly, for their own uſe or benefit, any of the fees " or perquiſites belonging to their office.

" III. All buſineſs requiring the attendance of two or " more Juſtices ſhall be tranſacted on days to be appoint- " ed at the New Bayley Court-Houſe, and at no other " place within the above Diviſion.

" IV. The Clerks ſhall be in common, and divide the " fees in the proportion of the number of Magiſtrates by " whom they are reſpectively appointed. They ſhall not " act as Advocates or Solicitors in any matter brought be- " fore the Magiſtrates. They ſhall keep exact regiſters " of all warrants and ſummonſes iſſued, of orders made, " of pariſh apprentices' indentures, &c. &c.

" V. Other

for the ſake of acquaintance or friendſhip, much leſs from a diſhonourable wiſh to purchaſe indemnity for miſconduct of his own. A further commiſſion with which they are entruſted is that of trying criminals of various deſcriptions. In this capacity they exerciſe functions analogous to thoſe of the Judges of the Aſſize; and many of the obſervations made in a former chapter on the Duties of the Judges of the Supreme Courts of Law are equally applicable to the conduct of Juſtices at the Seſſions. To thoſe obſervations the reader is referred. It remains only to add on this head, that although the ſentences paſſed on

"V. Other inferior regulations, not inconſiſtent with "the above, may be added from time to time, after a fort-"night's notice given to each Magiſtrate, by a majority "of thoſe who ſhall attend the meeting appointed to de-"termine the ſame.

"Signed T. B. Bayley,
"Peter Drinkwater,
"John Leaf,
"W. Broome,
"T. Richardson,
"John Simpson."

From the Regulations adopted by Magiſtrates in different parts of the kingdom other excellent examples might have been ſelected, had more than one been neceſſary.

criminals at the Seffions are found by experience to be more rigorous on the whole than thofe which are pronounced at the Affizes; this circumftance affords no grounds for imputing to the Juftices too great feverity. They are in many inftances well acquainted with the previous bad characters of the culprits tried by them; who are in common inhabitants of their own neighbourhood, and may have already appeared before their tribunal. And many perfons who ought to have been fent to the Affizes to be capitally indicted, are tried at the Seffions; the profecutors being aware that the latter mode is attended with lefs expence and lofs of time than the former, and wifhing for nothing more than the tranfportation of the offender. In both thefe cafes the Juftices, if they find themfelves invefted by the laws with a latitude in punifhing, are naturally and properly led to prefer the more confiderable chaftifement.

II. The other fubordinate Magiftrates, of whom it was propofed to treat, may be comprehended under the general defcription of Municipal Officers.

It

It would be altogether foreign to the purpose of this work, and not very conducive to utility, to enter into minute disquisitions concerning the several duties of Mayors, High Bailiffs, Aldermen, and other Magistrates of particular corporations; duties which depend on the various functions and privileges conferred upon the individuals by the domestic constitution of their respective franchises. I shall therefore confine myself to a few short remarks on the obligations which are incumbent on Municipal Officers in general. And even these remarks will be comprized within a much narrower compass than they might otherwise have occupied, in consequence of the preceding enquiry into the office of Justices of the Peace. For many of the persons now under consideration are themselves invested with the office and powers of Justices, by virtue of the situations which they occupy, especially if they are in posts of weight and preeminence in the body corporate to which they belong; and consequently the former part of this chapter may be regarded as immediately addressed to them. On their conduct therefore in the administration of the laws within

their diſtrict it is needleſs to enlarge. It may be right however to obſerve on the ſubject of their proceedings reſpecting the poor, that in great towns, and particularly in manufacturing towns, much impoſition on the public and more diſtreſs among the indigent might be prevented, were the place divided into a ſufficiently large number of diſtricts, each under its own overſeer; and were the overſeer obliged, on entering into office, to viſit all the poor families under his cognizance, and to make out and deliver to the Magiſtrates a liſt of every family, ſpecifying the ſex, the age, the employment, and the probable earnings of each individual. Theſe data would enable the Magiſtrates, on ſubſequent applications for relief, to aſcertain the cauſe of the neceſſity, and the due quantum of aſſiſtance, much more eaſily and ſatisfactorily than can generally be the caſe where ſimilar meaſures are not adopted. And it may not be ſuperfluous to add an expreſs caution to the members of corporations in ſmall towns, moſt of whom commonly are either ſhop-keepers or men engaged in mechanical trades, againſt being deterred from an honeſt and impartial diſcharge

of

of their duty by a fear of (*o*) diminiſhing the ſale of the articles in which they deal; of loſing the cuſtom of ſome of their townſmen, or of experiencing in other ways the effects of their diſpleaſure.

Corporations poſſeſs almoſt univerſally the right of filling up all vacancies in their own body, by raiſing ſubordinate members to a higher claſs, and by electing private individuals to ſupply the place of thoſe promoted. They frequently enjoy eſtates of conſiderable

(*o*) The following circumſtances are ſtated on good authority to have occurred very lately in a large town in the middle of the kingdom. The great quantity of public-houſes in the place, and the ſhameful proceedings of many, were matters of general notoriety. The Judges at the Aſſizes recommended a diminution of the number licenſed; the Corporation aſſembled to effect it; the propriety of the meaſure was obvious; and a large reduction was expected. But ſeveral of the Aldermen and their friends dealt in malt; and by one or other of them almoſt all the obnoxious landlords were ſupplied with that article. Each of theſe landlords was in conſequence reſcued from danger by the influence of his patron; and none were deprived of their licenſes, except one or two who had been indiſcreet enough to employ maltſters unconnected with the Corporation.

value,

value, with ample diſcretionary power as to the application of the income, and in ſome places with an almoſt unlimited right of applying it to ſuch purpoſes as they ſhall think fit. They are alſo commonly entitled to the receipt of tolls and other incidental branches of revenue; and often have the management of local truſts and charities of various deſcriptions. They have likewiſe in many boroughs the power of conferring on any perſon whatever, either by ſale or by donation, the right of voting for Members of Parliament. Of all theſe ſources of emolument and power, an intereſted, arbitrary, and oppreſſive uſe is frequently made. Neither this general remark, nor the ſhort illuſtrations of it which will be ſubjoined, are intended to throw indiſcriminate cenſure on all corporations; but they are deſigned to warn each member of a body corporate, eſpecially in a ſmall borough, againſt thoſe temptations by which he may not improbably be aſſailed, and by which many of his brethren in different parts of the kingdom are ſcandalouſly ſeduced. Theſe men, ſacrificing the public good to their own ſelfiſh views, caſt their eyes on ſome man of property in the neighbour-

neighbourhood, and ſell to him the influence which they poſſeſs over their colleagues and the inhabitants of the town, ſometimes for fair and ſpecious words, for promiſes of future favours, and one or two annual dinners; but not unfrequently for a more ſolid and bare-faced bribe. For the ſtipulated aid of their patron in procuring for them little places under Government, and for the certainty of an ample ſum to be paid in hand at every recurrence of an election; they engage in return that the great man himſelf, or any of his couſins or dependents whom he may condeſcend to nominate, ſhall be the freely choſen repreſentative of the borough. With indefatigable perſeverance they exert every practicable mode of augmenting their own power, that their ſervices may be more valuable, and be purchaſed at a higher rate. They ſhare part of the rewards of their venality among their moſt active aſſiſtants; and ſtrive to draw into acquieſcence, by flattery and deluſion, thoſe men of weight in the town who are not to be bought, and are perhaps but imperfectly acquainted with the ſelfiſh ſchemes privately going on, or are diſpoſed by the quietneſs of

their dispositions to prefer passiveness under almost any circumstance to the bustle of contest. The substantial inhabitant who is not of their *(p)* party is proscribed from all chance of obtaining a seat in the Council of Regency of the place. Every poor man who hesitates to surrender his vote to their disposal, or who has not a vote to surrender, is debarred from partaking of a dole, from turning his cow into the common pasture, from getting his child into a charity school, or his aged parent into an alms-house. If the strength of the refractory electors still continues formidable, they overpower it by creating a swarm of new and trusty voters; men whose faces are unknown in the borough when they come to receive the freedom of it, and are never seen afterwards within its precincts except on the day of poll. It is to the infamous conduct of servile and interested Corporations that we may trace almost every just complaint, which

(p) In some towns a difference in religious persuasion is a sufficient reason for opposing the admission of any person of the sect to office or emolument. Religious bigotry has a share in these proceedings; but in most cases they principally arise from political contests actually existing in the place, or not yet forgotten.

has

has been alleged againſt the exiſting ſtate of popular repreſentation in the Houſe of Commons.

The regulation of the police of the town, the removal of nuiſances, the ſuperintendence of markets, and other matters of the ſame nature, fall within the province of the Corporation; and each member is bound in conſcience to perform his part of the general duty, and cheerfully as well as conſcientiouſly to give up for the public good a due portion of his time, however valuable it may be to him. In points which relate to the traffic of the place, the body corporate may frequently render material benefit both to the town and to the community, by a judicious relaxation of ancient privileges and excluſive rights, which, however uſeful they may have been at their firſt inſtitution, are now become injurious and abſurd; and by a liberal relinquiſhment of petty tolls, which create many obſtructions and embarraſſments to internal trade, without producing any conſiderable revenue.

END OF THE FIRST VOLUME.

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